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ALEXANDER CUNNINGHAM'S PROPOSED EDITION OF THE DIGEST:
AN EPISODE IN THE HISTORY OF THE DUTCH ELEGANT SCHOOL
OF ROMAN LAW
(Part I)

by

JOHN W. CAIRNS (Edinburgh)*

Attempts to establish an authoritative text of the Digest with an appropriate scholarly apparatus have been fundamental to scholarship in Roman law since the early Renaissance. The basic problem remains how to relate the text of the *Littera Florentina* to the texts of the manuscripts of the *Littera Bononiensis*. If the former is the oldest manuscript, the latter, constituting the Vulgate tradition, contains readings that may be superior in some instances. Furthermore, though the Vulgate text settled down in the thirteenth century, it did not remain static, but was emended and revised, sometimes according to readings taken from the *Florentina*. Though the problem has been well understood for centuries, solutions to it have varied considerably. In part this was because the Digest was not simply a text subject to scholarly critique, but was also regarded as having a

* This article started life as a presentation at the Congress of the Société Internationale pour l'Histoire des Droits de l'Antiquité in Vienna, September, 1994; another version was presented in Utrecht in July, 1998 at a joint conference of the Eighteenth-Century Scottish Studies Society and the Dutch Society for Eighteenth-Century Studies. The long time of spasmodic work on a figure who led an international life means I have acquired a lot of debts. I have particularly valued the criticism, help, and suggestions of Dr Tammo Wallinga, but Dr Kees van Strien, Professor Govaert van den Bergh, and Professor Bernard Stolte gave me the benefit of their advice and guidance, as did Mr I.C. Cunningham, Dr Brian Hillyard, Dr Clare Jackson, Mr Donald Jardine, and Dr Murray Simpson. Frau Anke Hölzer of the Niedersächsische Landesbibliothek was helpful way beyond any justified expectation I may have held, as was Miss Jean Archibald of Edinburgh University Library. I gratefully acknowledge the following permissions to consult, cite, and quote manuscript material: from Mr Angus Stewart, Q.C., Keeper of the Advocates' Library, as regards Advocates' Manuscripts (Adv. MSS) held in the National Library of Scotland, from the Keeper of the Records of Scotland as regards material in the National Archives of Scotland, from the Trustees of the National Library of Scotland, from the British Library Board, from the Keeper of the Muniments, University of St Andrews, from the Archivists, University of Glasgow and Edinburgh City Council, and from the Librarians of the Royal Library, The Hague, the Biblioteca Nazionale Centrale, Florence, the Niedersächsische Landesbibliothek, the Bodleian Library, Oxford, and of the University Libraries of Cambridge, Edinburgh, Leiden, Munich, and Utrecht. I am also grateful to Dr G.J. Gardner, Dr W.A. Kelly, Dr A.K. Swift, and Dr G.M. Townend for permission to draw on their unpublished theses. I have retained the original spelling in all quotations from MSS, though expanding common contractions. Dates of letters are given either old style or new style as they occur in the original (although the English year is taken to start on 1 January); attention is only drawn to this when necessary to avoid confusion. Where letters are dated both old and new style, the latter is preferred.

legal authority¹; some of the difficulties in establishing a text, however, simply reflect problems common to all literature inherited from the ancient world².

The history of the editing of the Digest from the Renaissance onwards may be divided, if somewhat artificially, into three main phases³. First, there was that of the early humanistic period. Notable here were Angelo Poliziano's collation of the text of the *Florentina* and the work of Ludovico Bolognini. Such early studies helped Gregor Haloander prepare his important Nuremberg edition of 1529 and were used by Andrea Alciato in his researches. This phase culminated in the eventual publication of an edition of the actual *Littera Florentina* by the Torelli in 1553⁴. After this publication, knowledge of the *Florentina* was readily available. The problem posed for legal practice by the difference between this and the Vulgate tradition was resolved by the success of the edition of the Digest by Denys Godefroi of 1583, in which the editor, by the insertion of entirely humanistic elements, 'created a humanistic *littera vulgata*'⁵. Van den Bergh and Stolte convincingly suggest that the widespread acceptance of the *Littera Gothofrediana* owed as much to vigorous marketing and efficient distribution as to the scientific merit of the recension⁶. The text established by Godefroi remained in use until well into the nineteenth century, especially through popular editions such as that of Simon van Leeuwen first published in Amsterdam in 1663, long described in (at least Scottish) auction catalogues as the '*editio optima*'⁷.

The publication of van Leeuwen's edition of the text established by Gothofredus marks the start of a second phase of development in editing the Digest; the primary focus of such work was now the Dutch Republic. First, Laurens Gronovius made a new collation of the *Littera Florentina*, but failed to edit the text⁸. Secondly, Henrik Brenkman also travelled to Italy to make a new exami-

1. H.E. Troje, *Graeca leguntur: Die Aneignung des byzantinischen Rechts und die Entstehung eines humanistischen Corpus iuris civilis in der Jurisprudenz des 16. Jahrhunderts*, Cologne and Vienna 1971, p. 10; G.C.J.J. van den Bergh and B.H. Stolte, *The Unfinished Digest Edition of Henrik Brenkman (1681–1736), A Pilot-Survey and Edition of Digest 9.2 ad legem Aquiliam*, Tijdschrift voor Rechtsgeschiedenis, 45 (1977), p. 227–305 at p. 227–228. There is a very useful discussion of the issues in D.J. Osler, *Vestigia doctorum virorum: Tracking the Legal Humanists' Manuscripts*, Subseciva Groningana: Studies in Roman and Byzantine Law, 5 (1992), p. 77–94. An interesting discussion of the MS of the *Florentina* is found in B.H. Stolte, *The Partes of the Digest in the Codex Florentinus*, Subseciva Groningana, 1 (1984), p. 69–91.

2. E.J. Kenney, *The Classical Text: Aspects of Editing in the Age of the Printed Book*, Berkeley and London 1974.

3. On the history of classical scholarship in general, see U. von Wilamowitz-Moellendorf, *History of Classical Scholarship*, trans. by A. Harris, ed. by H. Lloyd-Jones, London 1982. There is an obvious close relationship of the history of editing of legal texts with that of literary and other texts; unfortunately, histories of classical scholarship generally ignore legal texts.

4. Troje, *Graeca leguntur*, p. 18–49; on Alciato's use of the work of Poliziano and Bolognini, see Osler, *Vestigia doctorum virorum*, p. 82–94.

5. Troje, *Graeca leguntur*, p. 90–92.

6. Van den Bergh and Stolte, *Unfinished Digest Edition of Henrik Brenkman*, p. 229.

7. *Ibid.*; e.g., *Catalogue of Curious and Valuable Books, Being Chiefly the Library of the late Mr. Alexander Bane Professor of Scots Law in the University of Edinburgh*, Edinburgh 1749, p. 9 (no. 234).

8. T. Wallinga, *Laurentius Theodorus Gronovius (1648–1724)*, Tijdschrift voor

nation of the *Florentina* and other manuscripts between 1709 and 1713. He devoted the rest of his life to the attempt to produce a new edition, but failed to complete it⁹. Brenkman's manuscripts were eventually acquired for Georg Christian Gebauer who was preparing a new edition of the Digest in Göttingen. After Gebauer's death, Georg August Spangenberg continued work on the new edition¹⁰. This edition was superior to the *Littera Gothofrediana*, but failed to dislodge it as the favoured, authoritative text¹¹.

The third phase in the history of the editing of the Digest starts with the attempts of Schrader, Clossius, and Tafel to produce a new edition¹². These failed to come to fruition, but paved the way for the later work of Theodor Mommsen, who eventually published his *editio maior* of the Digest in 1868–1870 in Berlin. The text established by Mommsen, with its notes of variant readings, has satisfied most subsequent scholars of Roman law. It has been questioned by some, however, who have called for a new edition of the Digest¹³; moreover, Osler has recently pointed out that 'Mommsen's edition of the Digest represents an advance over that of the Taurelli only in the reporting and identification of the corrections in the Florentine manuscript itself'¹⁴.

This paper is devoted to a small part of the history of the second of these phases – the proposal of Alexander Cunningham to produce a new edition of the Digest. That Cunningham had had some such plans has, of course, always been known: in recent years Stolte, Feenstra, and van den Bergh have referred to them¹⁵. The exact nature of Cunningham's plans has remained obscure. Stolte,

Rechtsgeschiedenis, 65 (1997), p. 459–495 [hereafter cited as Wallinga, *Gronovius*]; idem, *Laurentius Theodorus Gronovius (1648–1724) as a Traveller*, *Lias*, 24 (1997), p. 245–271; B.H. Stolte, *Henrik Brenkman (1681–1736) Jurist and Classicist: A Chapter from the History of Roman Law as Part of the Classical Tradition*, Groningen 1981, p. 18.

9. Stolte, *Henrik Brenkman*, p. 17–29, 65–86.

10. *Ibid.*, p. 38.

11. Van den Bergh and Stolte, *Unfinished Digest Edition of Henrik Brenkman*, p. 229.

12. See *Prodromus corporis iuris civilis a Schradero, Clossio, Taffelio, professoribus Tubingensibus, edendi*, Berlin 1823.

13. See C.M. Radding, *Vatican Latin 1406, Mommsen's Ms. S, and the Reception of the Digest in the Middle Ages*, *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte (Romanistische Abteilung)*, 110 (1993), p. 501–551 at 504–505; and more generally, R. Röhle, *Digestorum editio maior und Theodor Mommsen*, *Bulletino dell' Istituto di Diritto Romano*, 73 (1970), p. 19–34; P. Pescani, *Studi sul Digestum Vetus*, *Bulletino dell' Istituto di Diritto Romano*, 84 (1981), p. 159–250.

14. Osler, *Vestigia doctorum virorum*, p. 80. For an account of the issues of *recensio* and *emendatio* of the Digest, as they appeared at the beginning of this century, see F. Schulz, *Einführung in das Studium der Digesten*, Tübingen 1916, p. 1–62. See now J. Miquel, *Mechanische Fehler in der Überlieferung der Digesten*, *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte (Romanistische Abteilung)*, 80 (1963), p. 233–286.

15. Stolte, *Henrik Brenkman*, p. 14, notes 48–49; R. Feenstra, *Scottish-Dutch Legal Relations in the Seventeenth and Eighteenth Centuries*, in idem, *Legal Scholarship and Doctrines of Private Law, 13th–18th Centuries*, Aldershot 1996, XVI (= H. De Ridder-Symoens and J.M. Fletcher (edd.), *Academic Relations between the Low Countries and the British Isles 1450–1700: Proceedings of the First Conference of Belgian, British and Dutch Historians of Universities*, Held in Ghent September 30–October 2 1987 [= *Studia Historica Gandensia: Uit de seminaries voor Geschiedenis van de Rijksuniversiteit te Gent*, 273], Ghent 1989, p. 25–45) at p. 42–43; G.C.J.J. van den Bergh, *The Life and Work of Gerard Noodt (1647–1725): Dutch Legal Scholarship Between Humanism and Enlightenment*, Oxford 1988, p. 78–79.

for example, has suggested that his plans were ‘for a palingenesis-cum-commentary of Roman law in its entirety’¹⁶. My recent identification of Cunningham’s relatively detailed plans for his edition of the Digest, and for publication of other material on Roman law, provide an opportunity for a re-appraisal of Cunningham and his proposals¹⁷. To understand Cunningham’s intentions fully, it is necessary to place them in the context of his life and the scholarship of the period. This will also have the happy effect of further illuminating the history of the legal scholarship of the Dutch Elegant School, of which Cunningham, though a Scotsman, can be regarded as a member. Stolte has remarked that ‘deplorably little work has been done’ on the Dutch Elegant School of Roman law¹⁸, while van den Bergh commented recently that it ‘has been greatly neglected over the last century’¹⁹. There is a certain amount of debate over the nature of the Dutch Elegant School, who ought to be included in it, and how it may best be defined²⁰. Since Cunningham’s life and work were those of a man trained in the Netherlands in the great age of Dutch scholarship in Roman law, his concerns may help throw light on those of that age and School. Though a minor figure, his life and work are therefore not devoid of interest.

Study of Cunningham also helps illuminate the complex network of intellectual, social and political links and influences between Scotland, England, and the northern Netherlands in the late seventeenth and early eighteenth centuries²¹. His life and interests show the extent to which such reciprocal intellectual concerns still centred on the proper understanding of the legacy of the ancient world: holy scripture and the classics (including the *Corpus iuris civilis*). Yet, Cunningham lived in a period of distinct transition, as the new physical and moral sciences of the seventeenth century started to raise questions about the classical heritage and its significance. Roughly contemporary with Sir Isaac Newton, Cunningham was reasonably intimate with John Locke and acquainted with G.W. Leibniz, to mention only two notable individuals generally taken as important in the development of the new learning. During Cunningham’s lifetime, in Scotland as elsewhere, the climate of thought created by these and other figures was starting radically to affect people’s understanding of the world²². In some ways, Cunningham can be seen, along with individuals such as Thomas

16. Stolte, *Henrik Brenkman*, p. 14 note 49.

17. National Library of Scotland [hereafter cited as NLS], Saltoun Papers, MS 17813, fol. 15–16. These are printed in the appendix.

18. Stolte, *Henrik Brenkman*, p. 1.

19. Van den Bergh, *Gerard Noodt*, p. v.

20. See further, E.J.H. Schrage, *La Scuola Elegante Olandese*, in idem, *Non quia Romanum sed quia ius: Das Entstehen eines europäischen Rechtsbewußtseins im Mittelalter*, Goldbach 1996 [=Studi Senesi, 104 (1992), p. 534–547], p. 315–328; D.J. Osler, *Jurisprudentia Elegantior and the Dutch Elegant School*, *Ius Commune*, 23 (1996), p. 339–354; Wallinga, *Gronovius*, p. 490–493. G.C.J.J. van den Bergh, *Die holländische elegante Schule, Humanismus und Rechtswissenschaft in den Niederlanden 1500–1800* is keenly awaited.

21. On the political links, see now J.I. Israel (ed.), *The Anglo-Dutch Moment: Essays on the Glorious Revolution and its World Impact*, Cambridge 1991.

22. See, e.g., R.L. Emerson, *Scottish Cultural Change 1660–1710 and the Union of 1707*, in J. Robertson (ed.), *A Union for Empire: Political Thought and the British Union of 1707*, Cambridge 1995, p. 121–144.

Ruddiman, as representative of the last flowering of a late Scottish humanism²³; indeed, the Scottish generation after Cunningham essentially lost the older, more profound interest in the ancient world, the lawyers, for example, becoming more concerned with the tradition of natural jurisprudence than with the detailed and scholarly study of Roman law as good and of importance in itself²⁴. The progressive decline in the numbers of Scots studying law in the Netherlands in the years following Cunningham's death reflects that as much as the development of successful law schools in Scotland²⁵.

It would be wrong, however, to see Cunningham as somehow simply reflecting the side of the ancients in a quarrel between the ancients and the moderns: the issue is simply more complex than that. Rather, there is a need to understand how far his type of scholarship and intellectual concerns fed into the development of the philosophical, social and political thinking of Enlightened Scotland in the eighteenth century. It is clear, for example, that a humanist interest in *antiquitates* and universal history, which in Scotland was strongly influenced by Dutch scholarship, contributed to the growth of the historical thinking about social and political development that was such a marked feature of the Scottish Enlightenment²⁶. The detailed knowledge of the ancient world accumulated and transmitted by critics of classical literature and the philologists of the Dutch polyhistorical tradition not only helped make possible such key works of the later Enlightenment as Edward Gibbon's *History of the Decline and Fall of the Roman Empire* (1776–1788) and Adam Ferguson's *History of the Roman Republic* (1783), but also contributed information to the comparative social inquiries that were such a feature of the Enlightenment science and natural history of humankind. It is therefore unfortunate that, in comparison with the work on medical education, very little attention has been paid to the significance of the study of classics, universal history and *antiquitates* in the northern Netherlands and its impact on Scots of the early Enlightenment²⁷. Yet, the life and work of a

23. D. Duncan, *Thomas Ruddiman: A Study of Scottish Scholarship of the Early Eighteenth Century*, Edinburgh 1965.

24. See J.W. Cairns, *Rhetoric, Language and Roman Law: Legal Education and Improvement in Eighteenth-Century Scotland*, *Law and History Review*, 9 (1991), p. 31–58; idem, 'Famous as a school of Law as Edinburgh ... for Medicine': *Legal Education in Glasgow, 1761–1801*, in A. Hook and R.B. Sher (eds.), *The Glasgow Enlightenment*, East Linton 1995, p. 133–159. For a brief discussion of the similar debates in the Netherlands over the use of Roman law and its relationship to natural jurisprudence, see W.R.E. Velema, *Enlightenment and Conservatism in the Dutch Republic: The Political Thought of Elie Luzac (1721–1796)*, Assen and Maastricht 1993, p. 82–87, 110–114. The crucial figure here was F.A. van der Marck of Groningen. C.J.H. Jansen, *Natuurrecht of Romeins Recht, Een Studie over leven en werk van F.A. van den Marck (1718–1776) in het licht van de opvattingen van zijn tijd*, Leiden 1987, was unavailable to me.

25. Feenstra, *Scottish-Dutch Legal Relations*, p. 30, 34 prints tables demonstrating the decline in Scots studying law in the Netherlands.

26. See, e.g., J.W. Cairns, *Three Unnoticed Scottish Editions of Pieter Burman's Antiquitatum Romanarum Brevis Descriptio*, *The Bibliothek*, 22 (1997), p. 20–33.

27. There are some interesting but all too brief remarks in K. van Strien, *Schotse Studenten in Leiden omstreeks 1700* (deel II), *Leids Jaarboekje*, 86 (1996), p. 127–148 at 135–136. For example, Gibbon's debt to J.G. Heineccius, a German who worked very much in the tradition of the Dutch antiquarian and elegant school is evident and acknowledged: see *Le Journal de Gibbon à Lausanne, 17 Août 1763–19 Avril 1764*, ed. by G.A. Bonnard, Lausanne 1945, p. 9, 14, 26, 99–100. The debt is greater than that acknowledged

figure such as Charles Mackie, first Professor of Universal History and Greek and Roman Antiquities in the University of Edinburgh, indicates that this is an important topic, ripe for exploration²⁸. Moreover, courses in history, classical authors and *antiquitates* were commonly attended by law students and were considered to provide knowledge important for the educated lawyer: the Dutch experience here also influenced the growth of legal education in the Scottish Universities²⁹. Study of Cunningham's life and scholarship helps to explain these developments and to suggest new lines of inquiry.

Cunningham has been remembered most, however, for his quarrel with Richard Bentley over the latter's edition of the works of Horace, and for his skill as a chess player³⁰. Robert Wodrow reported that Cunningham was 'reckoned the best chess-player in Europe'³¹. His skill at the game had certainly made a considerable impression on Leibniz³². It is none the less fair to say that Cunningham is now largely forgotten, and has recently been considered only tangentially in scholarly discussion of his more famous contemporaries. In his own day, however, he was a noted member of the Republic of Letters, especially because of his work as a textual critic³³. He was on good terms not only with Leibniz and

in the famous 44th Chapter of the *Decline and Fall*: see K. Haakonssen, *Natural Law and Moral Philosophy: From Grotius to the Scottish Enlightenment*, Cambridge 1996, p. 88, n. 64. This influence on Gibbon is not really considered in J.G.A. Pocock, *Barbarism and Religion*, Cambridge 1999 onwards, at least in the two volumes so far published, although the reading of Heineccius is noted in the first volume, subtitled *The Enlightenments of Edward Gibbon*, at p. 264.

28. Cairns, *Three Unnoticed Scottish Editions*, p. 23–27; L.W. Sharp, *Charles Mackie, the First Professor of History at Edinburgh University*, *Scottish Historical Review*, 41 (1962), p. 23–45. On the influence of Dutch medical education see, E.A. Underwood, *Boerhaave's Men at Leyden and After*, Edinburgh 1977; R.W. Innes Smith, *English-Speaking Students of Medicine in the University of Leiden*, Edinburgh 1932. For one Scottish student's medical studies, see K. van Strien, *A Medical Student at Leiden and Paris: William Sinclair 1736–38*, *Proceedings of the Royal College of Physicians of Edinburgh*, 25 (1995), p. 294–304, 487–494, 639–651.

29. J.W. Cairns, *Importing our Lawyers from Holland: Netherlands' Influences on Scots Law and Lawyers in the Eighteenth Century*, in G.G. Simpson (ed.), *Scotland and the Low Countries, 1124–1994*, East Linton 1996, p. 136–153.

30. DNB; see further below.

31. R. Wodrow, *Life of James Wodrow, A.M., Professor of Divinity in the University of Glasgow, from MDCXCII to MDCVII*, Edinburgh 1828, p. 174.

32. G.W. Leibniz to T. Burnett, 29 Dec. 1707, in *Gothofredi Guillelmi Leibnitii ... opera omnia*, 6 vols., Geneva 1768, Vol. VI, p. 278 (see also G.W. Leibniz to T. Burnett, 14 Dec. 1705, *ibid.*, Vol. VI, p. 271). H.J.R. Murray, *A History of Chess*, Oxford 1913, p. 844–845 considers that Leibniz is referring to another Alexander Cunningham, noted as a historian, who served as British Ambassador to Venice (on whom see further below). This is wrong. As will be seen below, Leibniz met our Cunningham in Florence. Murray argues that many of the references to Cunningham the chess player are to the other Cunningham. This is because he thinks our Cunningham lived in Edinburgh until 1710, did not know the Earl of Sunderland, and did not know the Earl of Ilay, all of which are wrong as will be demonstrated below. Contrary to Murray's view, Alexander Cunningham of Block was the inventor of the famous Cunningham Gambit, the exact nature of which requires further elucidation.

33. There is a brief (and not entirely accurate) entry in the DNB. See also D. Irving, *Lives of Scottish Writers*, 2 vols., Edinburgh 1839, Vol. II, p. 220–233. For an account of one very important aspect of Cunningham's life, see W.A. Kelly, *Lord George Douglas (1667/1668?–1693?) and his Library*, in W.M. Gordon (ed.), *Miscellany Three*, Edinburgh

Locke, but also with Pieter Burman, Joseph Addison, Johannes Voet, Andrew Fletcher of Saltoun, Jean Le Clerc, J.G. Graevius, and the Earl of Sunderland, while he was known to scholars and bibliophiles all over Europe.

1. – The making of the civilian, critic, and scholar, ca. 1650–1686

Cunningham was born in the 1650s, descended from a family of small land-owners and clergymen in Ayrshire³⁴. His father, John Cunningham, minister of Cumnock from 1647, was a younger son of the family of Cunningham of Collellan or Collennan in the parish of Dundonald near the burgh of Irvine (John's father was Alexander Cunningham of Collellan). John Cunningham married Elizabeth Cunningham. He died in October 1668³⁵. Of John Cunningham's brothers, Hew became Provost of Irvine, while William also became a clergyman, and served as minister of Kilbride from 1658³⁶. William had married Euphan Cunningham in 1658, but died without children in 1669³⁷. Provost Hew's son, Alexander Cunningham of Chirriellands, was retoured as heir to his uncle William in 1686³⁸. Hew himself had died in February, 1666³⁹. Alexander Cun-

1992 [= Stair Society Vol. 39], p. 160–172; and idem, *The Library of Lord George Douglas* (ca. 1667/8?–1693), Cambridge 1997 [= Libri Pertinentes no. 5].

34. Records of baptisms do not survive for Cumnock for this period, making it impossible to be precise about the date of Cunningham's birth. I have adopted the more common modern spelling of the surname as 'Cunningham', in contrast to the manuscript catalogue of the National Library of Scotland which uses 'Cuningham'. In Cunningham's lifetime there was no consistency in the spelling of his name, and 'Cuninghame' and 'Cunninghame' were also commonly used as well as even more exotic variants. He himself seems to have had a slight preference – but not a consistent one – for a single 'n' and an 'e' at the end.

35. National Archives of Scotland (formerly Scottish Record Office) [hereafter NAS], Commissariat of Glasgow, Register of Testaments, CC. 9/7/37, p. 231–233.

36. *Fasti ecclesiae Scotticanae*, ed. H. Scott, 7 vols., Edinburgh 1915–1928, Vol. III, p. 25, 128. In his will (NAS, Commissariat of Glasgow, Register of Testaments, CC. 9/7/37, p. 231–233), John Cunningham names as his brother german William, minister of the gospel. This can only refer to William Cunningham, the minister of Kilbride, who is known to have been the son of Alexander Cunningham of Collellan: see G. Robertson, *A Genealogical Account of the Principal Families in Ayrshire, More Particularly in Kyle and Cunningham*, 3 vols., Irvine 1823–1825, Vol. III, p. 382. Further to this, it may be noted that in the will of Alexander Cunningham of Collellan, William Cunningham, minister of Kilbride, Hew Cunningham, late baillie of Irvine, and John Cunningham, minister at Cumnock, are among those named as tutors to the testator's children: NAS, Commissariat of Glasgow, Register of Testaments, CC. 9/7/32 (28 Oct. 1662). Further details of the family may be gathered from Robertson, *Principal Families in Ayrshire*, Vol. III, p. 313–323; J. Paterson, *History of the Counties of Ayr and Wigton*, 3 vols. in 5, Edinburgh 1863–1866, Vol. I.ii, p. 437–439, Vol. III.i, p. 156–157; J. Warrick, *The History of Old Cumnock*, Paisley 1899, repr. Cumnock 1992, p. 95–96 (none of these authors have noted the relationship with the Cunninghams of Collellan).

37. NAS, Commissariat of Glasgow, Register of Testaments, CC. 9/7/37, p. 193–194; J. Lauder of Fountainhall, *Decisions of the Lords of Council and Session, from June 6th, 1678, to July 30th, 1712*, 2 vols., Edinburgh 1759–1761, Vol. II, p. 215–216.

38. *Inquisitionum Retornatum ad Capellam Domini Regis quae in publicis Archivis Scotiae adhuc servantur, Abbreviatio*, ed. T. Thomson, 3 vols., Edinburgh 1811–1816, Vol. II: General no. 6743.

39. NAS, Commissariat of Glasgow, Register of Testaments, CC. 9/7/36, p. 361–363; *Inquisitionum Retornatum Abbreviatio*, Vol. II: General no. 6744.

ningham of Chirriellands subsequently acquired part of the lands of Collellan and assumed the territorial designation⁴⁰. He also served as Provost of Irvine, and was the burgh's Commissioner to the Convention of the Estates in 1689, signing the Act declaring the Convention to be a lawful meeting of the Estates, and the letter of congratulation to King William. He was the burgh's Commissioner to Parliament from 1689 to 1704⁴¹, dying in July 1705⁴².

Alexander was the eldest of four brothers (the others were John, Charles, and Hugh) and two sisters (Elizabeth and Margaret)⁴³. If far from rich, John Cunningham seems to have left his wife and children reasonably secure⁴⁴. As well as being a clergyman, he was the proprietor of a small estate in north Ayrshire in the bailliary of Cunningham, variously known as Block, Blook, or Bloak⁴⁵. He can also be traced buying land in Cumnock in 1654⁴⁶. As eldest son, Alexander was retoured as heir to Block in November 1677, and as general heir to his father in January of the next year⁴⁷. The estate of Block, which his father had acquired⁴⁸, probably brought Alexander an income of fifty to sixty pounds sterling⁴⁹. In her capacity as tutrix, Elizabeth Cunningham acquired an income for

40. See Fountainhall, *Decisions*, Vol. II, p. 215–216. As far as it is possible to work out, the main line of the Cunninghams of Collellan got into financial difficulties, and lost their lands. Alexander Cunningham of Block was involved with the claims over Collellan, because of a heritable bond over the property held by his father, which as retoured heir to his father, he assigned to Adam Fullerton in 1693. See NAS, General Register of Sasines, RS. 3/85, fol. 435v–438; NAS, Register of Deeds, RD. 2/72, p. 340–341. For a somewhat confused account of the vicissitudes of the Collellan lands, including the fact part of them came into the hands of the Fullartons, see Robertson, *Principal Families in Ayrshire*, Vol. III, p. 315–323.

41. *The Parliaments of Scotland: Burgh and Shire Commissioners*, ed. M.D. Young, 2 vols. Edinburgh 1992–1993, Vol. I, p. 163–164.

42. NAS, Commissariat of Glasgow, Register of Testaments, CC. 9/7/50, p. 157–161.

43. See NAS, Commissariat of Glasgow, Register of Testaments, CC. 9/7/37, p. 231–233.

44. See NAS, Commissariat of Glasgow, Register of Testaments, CC. 9/7/37, p. 231–233; and see the eik in NAS, Commissariat of Glasgow, Register of Testaments, CC. 9/7/38 (17 Oct. 1671) and the additional executry in NAS, Commissariat of Glasgow, Register of Testaments, CC. 9/7/48, pp. 246–248 (9 Feb 1691). See also NAS, Register of Inhibitions, DI. 8/20 (11 Jan. 1679), where Elizabeth registered an inhibition against Lord Cathcart and his son as a result of litigation arising out of a bond granted to her mother in return for a loan of 1,000 merks, the rights in which she had acquired. There evidently was capital to be used.

45. See *Ordnance Gazetteer of Scotland: A Survey of Scottish Topography*, new edn., ed. F.H. Groome, 6 vols., London 1894, Vol. I, p. 169 s.v. 'Bloak'. The name survives in the area in various farm names.

46. NAS, Particular Register of Sasines – Ayr, RS. 13/1, fol. 335v–337r.

47. NAS, Register of Retours, C. 22/33, fol. 292–293, 323–324. See also NAS, General Register of Sasines, RS. 3/85, fol. 435v–438v; NAS, Register of Deeds, RD. 2/72, p. 340–341.

48. *Inquisitionum Retornatum Abbreviatio*, Vol. I: Ayr no. 300 shows James Peebles being returned as heir to the same estate in 1635.

49. See the introduction by William Thomson to A. Cunningham, *The History of Great Britain: From the Revolution in 1688, to the Accession of George the First*, 2 vols., London 1787, Vol. I, p. xli. This work is by a different Alexander Cunningham, one who served as ambassador to Venice for George I. The two men's lives have many parallels which has led to much amusing confusion. The materials gathered by Thomson, however, are useful if used with caution and related to other material definitely concerning one or other Cunningham.

the other children, by securing their infefment in annualrent from lands in Ayr and Berwick⁵⁰.

At one time Charles Cunningham was an army surgeon in the regiment of Lord Cardross⁵¹. He seems to have served primarily in Scotland⁵²; in 1703, his brother Alexander attempted to use his influence with the Earl of Sunderland to gain him a captaincy in Lord Strathnaver's regiment, where he was currently serving as a Lieutenant⁵³. Charles predeceased his older brother. John died in April 1689, and his sister Elizabeth was confirmed as his executor because of her claims against his estate⁵⁴. By this date Margaret was already dead⁵⁵. The fate of Hugh is unknown, but he was certainly dead by 1693⁵⁶. Elizabeth married James Logan, a merchant, who became a burgess and guild brother in Glasgow by purchase in 1674⁵⁷. Logan, a younger son of the family of Logan of that Ilk, was dead before 1690. The couple had two sons. George, born in 1678, became a distinguished minister in Edinburgh, and ultimately the heir of his uncle Alexander who never married⁵⁸. The other son, James, lived in London and, from the early 1700s until around 1720, assisted his uncle in book dealing⁵⁹.

Ignorance of the family of Elizabeth Cunningham, Alexander's mother, prevents secure tracing of the family's wider links, a task not aided by the restricted range of Christian names favoured by the Cunninghams in general. The family was evidently closely involved in the complex network of Cunningham lairds in

50. NAS, General Register of Sasines, RS. 3/28, fol. 77–80.

51. NAS, Register of Deeds, RD. 2/72, p. 501.

52. RD 2/85, p. 189–190.

53. A. Cunningham to Earl of Sunderland, 8 Nov. 1703, British Library [hereafter cited as BL], Blenheim Papers, MS Add. 61657, fol. 8.

54. NAS, Commissariat of Glasgow, Register of Testaments, CC. 9/7/48, p. 221–223.

55. NAS, Register of Deeds, RD. 2/72, p. 340–341.

56. NAS, General Register of Sasines, RS 3/85, fol. 435v–438v indicates that, of Alexander's siblings, only Charles and Elizabeth were then still alive.

57. *The Burgesses and Guild Brethern of Glasgow, 1573–1750*, ed. J.R. Anderson, [Scottish Record Society], Edinburgh 1925, p. 201.

58. NAS, Register of Retours, C. 22/66, fol. 66v–67r; C. 22/70, fol. 355v–356r. The first of these shows that James, the father of George, was the son of Logan of that Ilk. See also *Fasti*, Vol. I, p. 133–134; Warrick, *Old Cumnock*, p. 281–284.

59. A. Cunningham to Earl of Sunderland, 8 Nov. 1703, BL, Blenheim Papers, MS Add. 61657, fol. 8 refers to 'my kinsman' having a catalogue of books. This is presumably James Logan. The documents in the Blenheim Papers relating to Sunderland's book-collecting contain many catalogues, accounts, and other documents in the hand of James Logan relating to his and his uncle's supply of books to Sunderland: e.g., BL, Blenheim Papers, MS Add. 61657, fol. 22 (1 June, 1706); J. Logan to N. Clagett, June 1720?, BL, Blenheim Papers, MS Add. 61658, fol. 56. References to his nephew James do not occur in Cunningham's correspondence after 1720. This may be because James died then, or because they fell out in some way – Andrew Fletcher of Saltoun thought in 1716 that James Logan was cheating his uncle, presumably over the book-dealing: A. Fletcher to A. Fletcher, 20 Feb. 1716, NLS, Saltoun Papers, MS 16503, fol. 127. Of course, absence of mention of Logan may simply reflect the death of Sunderland in 1721, since his papers are a major source of information about Logan. James Logan, certainly predeceased his uncle, however, since, should he indeed have been the brother of George, the latter's retour as heir and heir of entail describes him as the sole son still living of James Logan: NAS, Register of Retours, C. 22/66, fol. 66v–67r; C. 22/70, fol. 355v–366r. While I have been unable to find a conclusive link to demonstrate that James was the brother of George Logan, Cunningham's description of himself as James's uncle makes it most likely: A. Cunningham to J. Logan, 22 Feb. 1709, Cambridge University Library [hereafter CUL], MS Dd.3.64, fol. 56.

Ayrshire, all of whom were connected, to a greater and lesser degree, with the noble house of Cunningham, Earls of Glencairn. Cunningham later claimed a Cunningham of St. Christopher as his cousin, attempting to use his influence with the Earl of Sunderland to help him⁶⁰. This relationship with the Cunninghams of St Christopher connects Cunningham with the Cunninghams of Glengarnock, Baidland, Ashinyards, and Craigends⁶¹. Furthermore, Alexander Cunningham's uncle William married a daughter of John Cunningham of Baidland⁶². It is always possible, however, that Alexander's mother came from one of these families; moreover, the Cunninghams of Collellan had been closely linked with those of Baidland for a long time. Thus, John Cunningham of Baidland was curator to the daughters of Alexander Cunningham of Collellan in 1643⁶³; another John Cunningham of Baidland was appointed tutor to the children of another Alexander Cunningham of Collellan (along with John Cunningham, minister of Cumnock) by a testament dated 1652⁶⁴.

In one of the letters to Sunderland in favour of his cousin of St. Christopher, Cunningham also mentions his other 'cousin Master Cunningham of the House of Commons' as having 'a memorandum of his affair'⁶⁵. This is a reference to Henry Cunningham of Boquhan, then M.P. for the Stirling burghs, a Whig associated with the Duke of Argyll and Sir Robert Walpole, later rewarded with the Governorship of Jamaica⁶⁶. The nature of the family link with Henry Cunningham is unknown, but the M.P. was also related to another Alexander Cunningham, ambassador to Venice and author of a Latin history of Britain from 1688 to 1714⁶⁷. Alexander Cunningham the historian and ambassador has often been confused with the Cunningham under consideration here – even by their contemporaries – as the two men in many ways had parallel lives, knowing the same people⁶⁸. This confusion in fact allows us to confirm that the two Alexander

60. See, e.g., A. Cunningham to Earl of Sunderland, 20 Feb. 1720, BL, Blenheim Papers, MS Add. 61658, fol. 45; A. Cunningham to Earl of Sunderland, 31 May 1720, BL, Blenheim Papers, MS Add. 61658, fol. 51; A. Cunningham to Earl of Sunderland, 26 July 1720, BL, Blenheim Papers, MS add. 61658, fol. 60. See also A. Cunningham to J.P. d'Orville, 15 Dec. 1724, University of Oxford, Bodleian Library [hereafter cited as Oxf. Bod.], MS D'Orville 485, fol. 170.

61. Robertson, *Principal Families in Ayrshire*, Vol. I, p. 262–269, 281–284, 313–318; G. Crawford, *A History of the Shire of Renfrew*, Paisley 1818, p. 97–98, 371–372; D. Dobson, *Directory of Scottish Settlers in North America, 1625–1825*, 7 vols., Baltimore 1984, Vol. I, p. 48.

62. *Fasti*, Vol. III, p. 128

63. NAS, Register of Deeds, RD. 4/9, p. 353–355.

64. NAS, Commissariat of Glasgow, Register of Testaments, CC. 9/7/32 (28 Oct. 1662).

65. A. Cunningham to Earl of Sunderland, 20 Feb. 1720, BL, Blenheim Papers, MS Add. 61658, fol. 45; see also the Printed Case of Robert Cunnyngame [sic] of St Kitts, BL, Blenheim Papers, MS Add. 61644A, fol. 163–164.

66. See, e.g., R. Sedgwick, *The House of Commons 1715–1754*, 2 vols., London 1970, Vol. I, p. 393–394, 403, 597–598; G. W. Bridges, *The Annals of Jamaica*, 2 vols., London 1828, Vol. II, p. 26–27; F. Cundall, *The Governors of Jamaica in the First Half of the Eighteenth Century*, London 1937, p. 166–170; G. Metcalf, *Royal Government and Political Conflict in Jamaica, 1729–1783*, London 1965, p. 53–55.

67. See A. Cunningham to the Duke of Montrose, June? 1708, NAS, Montrose Muni-ments, GD. 220/5/171/7.

68. Thomson, Introduction, Cunningham, *History of Great Britain*, p. xi–xlvii contributed to the considerable confusion, by seeming to present an argument that the two men

Cunninghams were related. Between 1703 and 1705, Cunningham the historian corresponded with the Dutch humanist, Gisbert Cuper, Burgemeester of Deventer, mainly on the topic of numismatics. Cunningham was an intermediary in Cuper's sale of medals to the Earl of Pembroke. In October 1705, Cuper asked Cunningham about his project to edit the *Corpus iuris civilis*⁶⁹; Cunningham replied to Cuper, passing on the respects of Mr Cunningham who was to publish a body of jurisprudence. He added that they were relatives of the same name and surname so that one was often taken for the other, as Cuper seems to have done in his last letter⁷⁰.

As with the family link with Henry Cunningham of Boquhan, so the connection between the two Alexanders is unclear. The parentage of the historian is uncertain⁷¹; in his will, the nearest relatives he names are two nephews, Archibald Cunningham of Greenock and James Cunningham, and a niece, Margaret Cunningham – presumably children of a deceased brother – and a nephew surnamed Griffiths, son of his deceased sister Elizabeth Cunningham. It has not proved possible to identify these individuals; a link with the Cunninghams of Craigends is suggested, however, by his appointment of Alexander Cunningham of Craigends as trustee of a sum of money for his niece Margaret, who was to get the principal sum only when she married with the consent of Alexander Cunningham of Craigends. His connection with Cunningham of Boquhan resulted in a provision on a certain contingency to the sister of the deceased Governor of Jamaica. A close link with the Glencairn family is suggested by appointment of the second or third son of the last Earl as a beneficiary should there be no issue of either of his nephews Archibald and James⁷².

Crucial also was the religious background of the Cunninghams. The members

were one and the same, before stating that 'the probability is, that they were different' (p. xlii), while later stating that he was 'rather disposed ... on the subject of their diversity to be somewhat sceptical' (p. xlv). See further, e.g., 'Crito', *On the Supposed Identity of Cunningham the Critic and Cunningham the Historian*, *Scots Magazine*, 66 (1804), p. 731–733; 'A Friend to Accuracy', *Gentleman's Magazine*, 88, part II (1818), p. 100–102; *Life and Correspondence of Robert Southey*, *Gentleman's Magazine*, 35 (N.S.), part I (1851), p. 9–17 at p. 13. The confusion lingers and the DNB, while basically correct, still has certain confusions between the two.

69. G. Cuper to A. Cunningham, 20 Oct. 1705, Koninklijke Bibliotheek, The Hague [hereafter KB The Hague], MS 72 H 21, fol. 67–70.

70. A. Cunningham to G. Cuper, [end November? 1705], KB The Hague, MS 72 H 21, fol. 73–74.

71. Standard reference works, such as *Fasti*, Vol. II, p. 174 and the DNB all state that the historian was the son of the minister of Ettrick, Alexander Cunningham of Hyndhope. This is regularly repeated in works such as T. Craig-Brown, *The History of Selkirkshire*, 2 vols., Edinburgh 1886, Vol. I, p. 272–273. G. Tancred, *The Annals of a Border Club (The Jedforest) and Biographical Notices of the Families Connected Therewith*, 2nd ed., Edinburgh 1903, p. 93–94. The source of this information is D. Irving, *Lives of Scottish Writers*, 2 vols., Edinburgh 1839, Vol. II, p. 234–238, who gives as his source Alexander Cunningham, jeweller in Edinburgh. This source was evidently flawed, as much of the account is manifestly wrong. The family of the minister of Ettrick is easily traced in the records and there is no mention of a son called Alexander. Furthermore, in 1678, James Cunningham, designed as 'second lawfull son' of the minister of Ettrick, granted a discharge relating to problems arising out of the marriage contract signed by his father. The document mentions his brothers german, Robert and Walter, but not an Alexander.

72. NAS, Commissariat of Edinburgh, Register of Testaments, CC. 8/8/101, fol. 223v–227v. Cunningham's niece Margaret may well be the Margaret Cunningham who married

of Alexander Cunningham's family were convinced Presbyterians, who, after the restoration of episcopacy, refused to conform. John was accordingly confined to his parish from 1662, while William Cunningham was deprived of his in the same year⁷³. The member of the family who suffered most at this time was John Cunningham of Baidland, brother in law of William. He spent a considerable time imprisoned for rebellion and was eventually forfeited as a traitor⁷⁴. It is worth noting that, in later years, Alexander was a friend ('his old acquaintance') of the noted Presbyterian divine, James Wodrow, Professor of Divinity in the University of Glasgow – Wodrow's son Robert was to recall his father and Cunningham playing chess together⁷⁵. This connection confirms that Cunningham was brought up a strict Presbyterian during the era of episcopal government of the Kirk, retaining the approval of Robert Wodrow, the apologist for Restoration Presbyterianism in its struggles with the Episcopalian establishment⁷⁶. Cunningham's cousin and namesake of Chirrieland's career as provost and member of the Scottish Parliament also testifies to the family's good Whig credentials.

Ayrshire was an area noted for its resistance to the Restoration government's ecclesiastical policy. On 29 January 1678, the Privy Council required landowners in that shire to sign a bond to keep the peace. As laird of Block, Alexander Cunningham, whose father and uncle had notably resisted the government's religious policies, was one of those required to do so. He was charged with lawburrows and put to the horn on 11 March of this year for failing to sign the bond⁷⁷. Execution of this against Cunningham was shortly thereafter superseded, however, and he was granted the Privy Council's protection⁷⁸.

The place of Cunningham's university education is uncertain. The common suggestion is that he is the Alexander Cunningham who graduated M.A. from the University of Edinburgh in 1676⁷⁹. This man matriculated one student after Archibald Campbell, Lord Lorne, the future first Duke of Argyll⁸⁰. The fact that Cunningham was to be tutor to Lorne's son, the second Duke of Argyll, in the mid-1690s gives a slight – but far from conclusive support – to this identifica-

James Dalrymple of Nunraw, younger son of Sir Hew Dalrymple of North Berwick, President of the Court of Session: Thomson, Introduction, Cunningham, *History of Great Britain*, p. xviii; J. Balfour Paul, *The Scots Peerage*, 9 vols., Edinburgh 1904–1914, Vol. VIII, p. 141.

73. *Fasti*, Vol. III, p. 25, 128.

74. Paterson, *History of Ayr and Wigton*, p. 157. Much of John Cunningham's misfortunes can be readily traced through the register of the Privy Council.

75. Wodrow, *Life of James Wodrow*, p. 174.

76. Robert Wodrow was the author of *The History of the Sufferings of the Church of Scotland*, 2 vols., Edinburgh 1721–1722.

77. *The Register of the Privy Council of Scotland*, 3rd Ser., Edinburgh 1912, Vol. V, p. 513–514, 567.

78. *Ibid.*, Vol. V, p. 570 (13 Mar. 1678).

79. See Edinburgh University Library (hereafter EUL), Laureation Album 1585–1809, MS Da. 34 (for 1676); *A Catalogue of the Graduates in the Faculties of Arts, Divinity, and Law, of the University of Edinburgh, Since its Foundation*, Edinburgh 1858, p. 108. D. Irving, *Memoirs of Buchanan*, 2nd edn., Edinburgh 1817, p. 401 suggests that '[I]t ... seems probable that he studied in the university of Edinburgh'. The DNB claims he 'was probably educated ... at Edinburgh'.

80. EUL, Register of Edinburgh University Matriculations 1627–1703, MS Da. 34, p. 91.

tion, if we suppose that Argyll was likely to choose a former class-mate as tutor to his son⁸¹. It is, however, always possible that Alexander Cunningham the critic was one of a number of men of this name who studied in Glasgow in the 1670s: he could, for example, be one of those who graduated M.A. in 1674⁸². Another Alexander Cunningham was in the fourth class in 1675⁸³. Yet a further candidate for the critic is an Alexander Cunningham who matriculated in St. Leonard's College in St. Andrews in 1673, graduating B.A. in 1676 and M.A. in 1677⁸⁴. The lack of any known link of Cunningham and his family with St. Andrews, however, makes it seem least likely that he was the student who studied there⁸⁵. In favour of his having studied in the University of Glasgow is his close friendship with James Wodrow, who graduated from Glasgow in 1659, and the University's close links with his home county of Ayr; furthermore, he donated books to its library in 1693⁸⁶. On the other hand, he donated a particularly valuable book to Edinburgh University in 1695 in memory of his dead pupil, Lord George Douglas. Since Lord George had studied in *Glasgow* University, it may be that this gift was prompted by Cunningham's piety towards

81. Neither the signature of this man when he matriculated under the regent Wishart as 'Alexander Cunigamius' nor the signature on graduation particularly resemble that of the mature Cunningham the critic, but it is unsafe to draw any conclusions from this. On Cunningham's role as tutor to Lord Lorne, the 2nd Duke of Argyll, see, e.g., A. Cunningham to W. Carstares, 20 Oct. 1697, *State-Papers and Letters Addressed to William Carstares, Confidential Secretary to K. William during the Whole of his Reign; afterwards Principal in the University of Edinburgh*, ed. J. McCormick, Edinburgh 1774, p. 360–361. It has been commonly assumed that it was the historian and future ambassador who was tutor to Lorne (see, e.g., DNB). This false identification was widely disseminated by Irving, *Memoirs of Buchanan*, p. 412, *idem*, *Scottish Writers*, Vol. II, p. 234–236. The letter of A. Cunningham to W. Carstares, 4 Aug. [1697], EUL, MS Dk.1.1², fol. 212 is holograph of Cunningham of Block and proves that he was tutor to Lord Lorne at this period.

82. *Munimenta alme Universitatis Glasguensis: Records of the University of Glasgow from its Foundation till 1727*, ed. by C. Innes, 4 vols., Maitland Club, Glasgow 1854, Vol. III, p. 40, 41, 125, 130, 269, 270, 271.

83. Glasgow University Archives 26619, p. 239. This is the signature, of those preserved of these alumni of Glasgow, that most resembles that of the mature Cunningham; but the variation between this signature and that of the adult Cunningham is more than sufficient to prevent any certainty in the matter. Furthermore, the stage of study of this student makes him most unlikely to be our Cunningham, who left for the Netherlands in 1678.

84. See St. Andrews University Archives, Acta Rectorum, UY305/3, p. 441, where the signature again is unhelpful, though not particularly resembling that of the mature Cunningham. I am grateful to Dr N.H. Reid, Keeper of Muniments, University of St. Andrews, for information and assistance.

85. There is no Alexander Cunningham a student in King's College or Marischal College in Aberdeen at the relevant period.

86. *Munimenta alme Universitatis Glasguensis*, Vol. III, p. 442: *Clementis Galani, Surrentini, Clerici Regularis Theologi, & S. Sedis Apostolicae ad Armenos Missionarij, Historia Armena, ecclesiastica & politica, nunc primum in Germania excusa & ad exemplar Romanum diligenter expressa*, Cologne 1686 (current pressmark in Glasgow University Library Bh8–i.11); *Iacobi Cuiacii iurisconsulti opera, quae de iure fecit, et edi volvit*, Hanover 1602 (the copy donated by Cunningham is one of two possible copies in Glasgow University Library, pressmarks Bhy–b.3 or Sp.Coll.f 424). Cunningham had also known and been much obliged to the Principal of Glasgow, Dr Fall, who held office from 1684 to 1690.

his own *alma mater*⁸⁷. Though certainty is currently impossible, it seems, on balance, that he is probably to be identified with the graduate of Edinburgh.

As was not unusual for Scotsmen of his background, Cunningham next embarked on legal study. In January 1678, the Privy Council granted 'Mr Alexander Cuninghame, student of the laws' a licence 'to depairt furth of the Kingdome'⁸⁸. It is possible, however, that he had already been abroad to study, and had only returned to be caught by the Privy Council's restrictions on travelling abroad. It was 'the notoriety of his absence out of this kingdome on his studyes' that caused the Privy Council to suspend execution against him of the horning on 13 March 1678⁸⁹. Cunningham studied law in the Netherlands at the University of Utrecht with Johannes Voet⁹⁰. Utrecht was popular with Scots students because of its climate, considered to be healthier than that of Leiden⁹¹.

Cunningham probably followed the regular practice of many law students and also studied classics and history. At this time, J.G. Graevius was a Professor at the University of Utrecht, and it is plausible to assume that Cunningham attended his classes. Twenty years later, Graevius described Cunningham as his 'old friend'⁹². Given Cunningham's subsequent fame as an expert in books and their editions, this likely early association with Graevius is important. Not only was Graevius very knowledgeable about bibliography, which indeed any serious classical scholar had to be, but, from at least the 1690s, he also gave some of the earliest classes in a university on bibliography, using as his text book the catalogue of the great library of Nikolaas Heinsius.⁹³ Graevius's lectures have been judged to have helped shape contemporary opinion on the bibliography of

87. EUL, MS Da. 1.31, fol. 50.

88. *Register of the Privy Council*, Vol. V, p. 329.

89. *Ibid.*, Vol. V, p. 570.

90. C. van Bijkershoek to C. van Eck, 10 Jan. 1705, University Library Utrecht [hereafter UB Utrecht], MS 1000 7B3, described Voet as Cunningham's 'praeceptor'; J. Voet, *Commentarius ad Pandectas*, Leiden 1698–1704, XLVIII,xix,2 described Cunningham as 'auditor olim inter primos charus'. Cunningham appears in neither the *Album studiosorum Academiae Lugduno-Batavae MDLXXV–MDCCCLXXV*, The Hague 1875, nor in the *Album studiosorum Academiae Rheno-Traiectinae*, Utrecht 1886, but the latter, unlike the former, is notoriously incomplete. Voet moved from Utrecht to Leiden in 1680. Taken with the date of Cunningham's departure from Scotland at the beginning of 1678, this strongly suggests that he studied law in Utrecht with Voet. Further, the letter of James Fall to the Earl of Tweeddale, 13 May 1678, NLS, Yester Papers, MS 14407, fol. 53–54, mentions someone of the name of Cunningham as 'now at Utrecht studying the Lawes'. Fall was associated with Alexander Cunningham, confirming that this was our man. See M.T.C. Simpson, *Some Aspects of Book Purchasing in Restoration Scotland: Two Letters from James Fall to the Earl of Tweeddale, May 1678*, *Edinburgh Bibliographical Society Transactions*, 6, Part I (1990), p. 2–9 (I am grateful to Dr Simpson for bringing this letter to my attention).

91. See, e.g., H. Fletcher to A. Fletcher, 22 Nov. 1714, NLS, Saltoun Papers, MS 16503, fol. 77–78.

92. See, e.g., J.G. Graevius to L.T. Gronovius, 9 Aug. 1700, Universitätsbibliothek München [hereafter UB München], 2^o Cod. MS 649, fol. 65 (I owe this and all subsequent references to the Gronovius MSS in Munich to the kindness of Dr Tammo Wallinga). On Graevius, see J.E. Sandys, *A History of Classical Scholarship*, 3 vols., Cambridge 1903–1908 (3rd ed. Vol. I, 1921), repr. New York 1967, Vol. II, p. 327–328.

93. See M.H. Hoeflich, *Bibliography in the Seventeenth Century: J.G. Graevius's Lectures*, The Library, 32 (1977), p. 48–52.

Roman law in particular⁹⁴. It is easy to see why the two men remained friends until the professor's death. In any case, Cunningham must already have been interested in and knowledgeable about books. Thus, in May 1678, James Fall proposed him (described as a law student in Utrecht) to the Earl of Tweeddale as 'the fittest persone' he knew to be commissioned to purchase books for the Earl at auctions in the Netherlands⁹⁵. This link with Fall was to be important to Cunningham, so it is important to say not only a little about the older man but also about what this connection reveals about the intellectual *milieu* in which Cunningham was already moving.

Fall was an alumnus of the University of Edinburgh, having studied there during the principalship of Robert Leighton, to whom he became deeply attached. His life is in many ways obscure, but he evidently was a bibliophile and book collector with good links to other collectors⁹⁶. His patron, Leighton, became Bishop of Dunblane and then Archbishop of Glasgow, resigning the latter charge in 1674. Leighton, whose deathbed in 1684 was attended by Fall and Gilbert Burnet, the future Bishop of Salisbury, left an important library to the diocese of Dunblane; Fall assisted in the establishment of this library in Dunblane and continued to be interested in it, even after he left Scotland in 1690⁹⁷. Fall was also well-acquainted with Andrew Fletcher of Saltoun (later known as the 'Patriot' for his opposition to Union with England), a traveller and bibliophile who collected an important library. Much the same age as Cunningham, Fletcher was to become one of his closest friends; perhaps they were already known to one another⁹⁸. In later years, Cunningham was to help Fletcher collect his library, advising in particular on law books, at one time providing an extensive list of the law books that should be acquired for Saltoun⁹⁹. Fall and Fletcher had gone book hunting together in Paris sometime before 1678¹⁰⁰. (It is also perhaps worth noting here that Fletcher had been tutored by Gilbert Burnet, when the latter was parish minister of Saltoun).

94. *Ibid.*, p. 50.

95. J. Fall to the Earl of Tweeddale, 13 May 1678, NLS, Yester Papers, MS 14407, fol. 53–54.

96. See J.F. Leishman, *Principal James Fall of Glasgow (1647–1711)*, Transactions of the Glasgow Archaeological Society, 7 (1924), p. 342–350; Simpson, *Two Letters from James Fall*, p. 2–6.

97. R. Douglas, *An Account of the Foundation of the Leightonian Library*, in The Bannatyne Miscellany; Containing Original Papers and Tracts, Chiefly Relating to the History and Literature of Scotland, Volume III, Edinburgh 1855, p. 227–264.

98. For a list of Fletcher's library, see P.J.M. Willems, *Bibliotheca Fletcheriana: Or, the Extraordinary Library of Andrew Fletcher of Saltoun*, Wassenaar 1999. The tragic story of the dispersal of this major part of Scotland's cultural heritage is discussed at p. xiii–xiv. For a short but very perceptive account of Fletcher's life and thinking, see Andrew Fletcher, *Political Works*, ed. John Robertson, Cambridge 1997, p. ix–xxx. The standard biography is the disappointing W.C. Mackenzie, *Andrew Fletcher of Saltoun: His Life and Times*, Edinburgh 1935.

99. A. Fletcher to A. Fletcher, 1 May 1716, NLS, Saltoun Papers, MS 16503, fol. 143. Early in 1715, a catalogue of the law books at Saltoun was sent to the Netherlands for Cunningham: H. Fletcher to A. Fletcher, 19 Feb. 1715, NLS, Saltoun Papers, MS 16503, fol. 83–84. This may have been to help Cunningham give further advice to Fletcher on his collecting, as well as for Cunningham's own interest.

100. J. Fall to the Earl of Tweeddale, 13 May 1678, NLS, Yester Papers, MS 14407, fol. 53–54. Fletcher can be traced in Paris in 1670, 1675, and 1676–1677: see the chronology drawn up by Robertson in Fletcher, *Political Works*, ed. Robertson, p. xxxi.

In 1680, Fall was appointed as governor (tutor) to Lord Drumlanrig and Lord William Douglas, the eldest and second sons of the Duke of Queensberry and accompanied them in travels abroad in France and Italy until October 1683¹⁰¹. In 1682, presumably through the influence of Queensberry, Dr Fall was appointed Historiographer Royal. Fall was also well-known to the physician, antiquarian, and natural historian Sir Robert Sibbald (another alumnus of Edinburgh under Leighton), an important cultural figure in Restoration Scotland, who was one of the founders of the Royal College of Physicians in Edinburgh¹⁰². In 1684, Fall became Principal of the University of Glasgow, occupying the office until 1690, when his refusal to accept new oaths after the Revolution led to his deprivation and replacement. He thereafter held various livings and offices in the York diocese and edited Leighton's works¹⁰³. He retained his interest in the University of Glasgow after 1690, continuing to donate books to it, while bequeathing his French and Italians books to the Dean and Chapter of York¹⁰⁴.

By 1678, when he was a law student in Utrecht, Cunningham thus had already started to build up a reputation as a scholar and bibliophile. He was already known to other bibliophiles. He must have profited considerably from this time in the Netherlands, which by now were the centre of the antiquarian book trade. Described by Fall as 'both discreet and intelligent', he had sufficient skills in bibliography to be trusted to seek out and buy antiquarian books at auctions; he was indeed already doing so for Robert Cunningham¹⁰⁵. The young scholar was moving in the type of circles in which he was to spend the rest of his life and had already become known to individuals who not only were to offer him patronage and support in the future and but were also to become his friends. His participation in the Republic of Letters started early; it is a testimony to his natural talents and the skills and learning he had already acquired.

It seems likely that Cunningham studied in Utrecht for at least two years, perhaps returning to Edinburgh sometime in 1680 (when Voet moved to Leiden)¹⁰⁶. He was certainly back in Edinburgh early in 1681¹⁰⁷. Most Scottish law

101. [J. Fall], *Memoires of My Lord Drumlanrig's and his Brother Lord William's Travells abroad for the Space of Three Yeares Beginning Septr 13th 1680 From a MS. Book in the Charter Room Drumlanrig Castle*, ed. by H.H. Dalrymple, Edinburgh 1931.

102. Leishman, *Principal James Fall*, p. 344; see also R.L. Emerson, *Sir Robert Sibbald, Kt, the Royal Society of Scotland and the Origins of the Scottish Enlightenment*, *Annals of Science*, 45 (1988), p. 41–72.

103. Leishman, *Principal James Fall*, p. 344–346; Simpson, *Two Letters from James Fall*, p. 2–3.

104. Leishman, *Principal James Fall*, p. 346, 348; *Munimenta alme Universitatis Glasguensis*, Vol. III, p. 437, 443, 591.

105. J. Fall to the Earl of Tweeddale, 13 May 1678, NLS, Yester Papers, MS 14407, fol. 53–54. The identity of Robert Cunningham is as yet obscure. A man of that name was apprenticed to the stationer Thomas Fawcett in 1642: *Stationers Company Apprentices 1641–1700*, ed. D.F. McKenzie, Oxford 1974, p. 55 (no. 1467). The son of a London Haberdasher, he has no obvious immediate connection with Scotland. A Robert Cunningham also features in Sunderland's book-collecting records as receiving payment from the executors: they can scarcely be the same man, nor indeed does it seem very likely that this second Robert Cunningham was the man for whom Alexander was buying books in 1678: see, e.g., BL, Blenheim Papers, MSS Add. 61658, fol. 138, 61659, fols. 45, 94–95.

106. K. van Strien and M. Ahsmann, *Scottish Law Students in Leiden at the End of the Seventeenth Century, The Correspondence of John Clerk, 1694–1697*, *Lias*, 19 (1992), p.

students did not take a degree in the Netherlands: it was an unnecessary expense and trouble with no benefit for them¹⁰⁸. There is no evidence to suggest Cunningham departed from this practice¹⁰⁹. In 1725, however, Alexander Cunningham, a medical student of the Cunningham of Caprington family, dedicated his Leiden medical dissertation to his father and uncle, but also to John Cunningham of the Scots-Dutch regiment and to Alexander Cunningham. The last two were probably singled out as Cunninghams prominent in the Netherlands. The dedication to Alexander, as one would expect, picked out his fame and erudition in law and *literae humaniores*; it also described him as *juris utriusque doctor*¹¹⁰. There can be no question but that Cunningham was qualified to take this degree and indeed had had opportunities to do so in Italy and Germany and elsewhere. Whether he in fact held it may be doubted; he is nowhere else described as holding this degree and there is no other evidence of his possession of it, while there is no trace of any type of doctoral dissertation in the auction catalogues of either his own or his nephew's libraries.

After Cunningham's return to Scotland, we lose sight of him for a frustrating five years. He did not seek admission to the Faculty of Advocates in Edinburgh. It is possible that his religious and political views (or, at least, his filial piety) prevented him from taking oaths – such as the Test – enforced by the Restoration government¹¹¹. On the other hand, what we know of his life suggests that a career as an advocate would not have interested him. The same requirement of conformity to the episcopal establishment in the Kirk and acknowledgement of royal supremacy perhaps also prevented attempts to secure a university post, should that have been an ambition. However that might be, he seems likely to have devoted himself to study, perhaps supported by the rents of his estate, or some employment. He may have travelled abroad, perhaps returning to the Netherlands or travelling to France, probably pursuing the bibliographical researches in which he was starting to excel, while collecting books for himself and others; he subsequently showed a restless love of travel. He definitely passed some of the time in England and he was later to count a considerable number of English scholars among his friends and acquaintance¹¹².

271–330 at p. 281 confirm that Scots generally studied law in the Netherlands for two years.

107. NAS, Register of Deeds, RD. 2/69, p. 339–340 (Cunningham signs a deed in Edinburgh as cautioner for a debt on 10 Feb. 1681).

108. J.W. Cairns, *Advocates' Hats, Roman Law and Admission to the Scots Bar, 1580–1812*, *Journal of Legal History*, 20, no. 2 (1999) p. 24–61 explores this issue.

109. See P.L. Nève, *Disputations of Scots Students Attending Universities in the Northern Netherlands*, in W.M. Gordon and T.D. Fergus (edd.), *Legal History in the Making: Proceedings of the Ninth British Legal History Conference Glasgow 1989*, London 1991, p. 95–108 at p. 101–107.

110. A. Cunningham, *Dissertatio medica inauguralis, de epilepsia*, Leiden 1725, p. [3].

111. See G. Donaldson, *Scotland. James V–James VII* [= *The Edinburgh History of Scotland*, Vol. III], Edinburgh 1965, p. 379–380.

112. W.A. Kelly, *The Library of Lord George Douglas (c.1667/8–1693?)*, M.A. thesis, University of Strathclyde 1975, Part 2, p. 30 (hereafter cited as Kelly, M.A. thesis, with all references to the separately paginated Part 2) shows that he met Lord George Douglas, whom he was to accompany to the continent, near Cambridge. Since Douglas had to travel down from Scotland, this suggests that Cunningham was living in that area.

2. – Tutor to Lord George Douglas and early projects, 1686–1693

In the middle of the 1680s, the Duke of Queensberry employed Cunningham as a tutor to accompany his son, Lord George Douglas, abroad on his studies. Francis Turner, the Bishop of Ely, Dr Fall, now Principal of the University of Glasgow, and Lord Drumlanrig, the Duke's eldest son had recommended Cunningham to Queensberry¹¹³. In the Duke's eyes, the most significant recommendation was that of Bishop Turner, although it was with Fall, who had been tutor to Lord George's older brothers, that Cunningham had negotiated the salary of £50 sterling *per annum*¹¹⁴. Cunningham had evidently been spending time in Cambridgeshire, so that it was at Huntingdon that he and his charge met in the Spring of 1686¹¹⁵. Francis Turner was deprived of his diocese of Ely after the Revolution in 1688, while Fall, as we have seen, was likewise to be removed from his office as Principal¹¹⁶. In the instructions to Cunningham, the Duke was very concerned that Lord George should continue to be firm in 'the knowledge of God and his trew Religion, as he has been hitherto Instructed and as it is profest in this Kingdom in conformitie with the Church of England as now establisht by Law in the Island of great Brittain'¹¹⁷. That a convinced episcopalian such as Queensberry should appoint Cunningham on the recommendation of two men such as Fall and Turner suggests that Cunningham himself may by now have conformed to the new establishment of the Kirk in Scotland. Moreover, the convinced Presbyterian, John Erskine of Carnock, who had taken part in Argyll's uprising in 1685, described Cunningham, when he met him in Utrecht in December 1686, as having 'of late turned lax and extravagant in his principles'¹¹⁸. On the other hand, if Cunningham had indeed wandered from his family's religious and political views, it cannot have been very far, since he remained on very good terms with individuals such as the Wodrows, who strongly condemned the Restoration episcopal establishment; Erskine's remark may simply acknowledge Queensberry's patronage. Moreover, Cunningham's very meeting with Erskine in the Netherlands is significant in itself; the scholar was happy to move in circles in Utrecht where he could easily come across one of the many Scots exiles from the Stewart regime, although Queensberry had specifically instructed that both he and Lord George were neither to see any of the Scots (or English) exiles nor to converse with any who had dealings with them¹¹⁹. It is, however, difficult to see how the two men could have completely avoided the exiles and their associates who had become a definite – if distinctive – part of the general Scottish expatriate community in the United Provinces¹²⁰.

113. Kelly, M.A. thesis, p. 29, 62.

114. *Ibid.*, p. 62, 66.

115. *Ibid.*, p. 30.

116. J. Le Neve and T.D. Harn, *Fasti ecclesiae Anglicanae*, 3 vols., Oxford 1854, Vol. I, p. 345; J. Coutts, *A History of the University of Glasgow from its Foundation in 1451 to 1909*, Glasgow 1909, p. 166.

117. Kelly, M.A. thesis, p. 62.

118. *Journal of the Hon. John Erskine of Carnock 1683–1687*, ed. by W. MacLeod [= Scottish History Society, vol. 14], Edinburgh 1893, p. 218. On Argyll's uprising, see Donaldson, *James V–James VII*, p. 380–381.

119. Kelly, M.A. thesis, p. 67.

120. On the exile community and its links with the wider Scottish community in the

Queensberry's appointment of Cunningham, whose background, in any case, was among the Presbyterian and covenanting lairds and ministers of Ayrshire, should probably be viewed, however, simply as testimony to Cunningham's established reputation as a talented scholar and bibliophile, rather than as a reflection of his religious views. Thus, Cunningham was already in correspondence with Antonio Magliabechi, the famous bibliophile and scholar, who, as the Librarian of Grand Duke Cosimo III in Florence, had charge of the *Florentina*¹²¹. He was sufficiently informed to be able to gossip about the secretary of an Italian cardinal¹²². Erskine described Cunningham in 1686 as one who 'was a pretty scholar, and understanding man many ways'¹²³. Whatever may have been Cunningham's religious position at this time, his scholarly abilities permitted him to move easily and be accepted in the episcopalian circles that were to remain loyal to James VII.

Lord George was intended for a career as a diplomat, which was judged to require an education in law. The Duke's instructions to Cunningham expressed the wish that his son 'studie the Civill Law with as great exactness as any that ever thought to gain ther bread by it'. Since Cunningham was selected as Lord George's tutor because of his special expertise in law and classics, he was given complete discretion as to the direction of his charge's studies. As well as 'this main design', but 'subservient' to it, were other studies which were also 'most usefull for a Gentleman', particularly 'the knowledge of the Roman Historie ... out of ther owne Authors, The knowledge of the Grecian Histories also from the Grecian wryters'; Lord George was also to master these¹²⁴. These were instructions very different from those given to Dr Fall when he accompanied Lord George's brothers abroad; indeed, the travels of Cunningham and the younger brother were to be of quite a different nature¹²⁵. Cunningham's knowledge of the Low Countries, where it was intended that Lord George should

Netherlands, see now G.J. Gardner, *The Scottish Exile Community in the United Provinces, 1660–1690*, unpublished D.Phil. thesis, University of Oxford 1998, p. 11–44. Cunningham encountered Erskine in the house of a Mr Brodie, listed by Gardner as a 'possible exile': *ibid.*, p. 296.

121. See J. Gronovius to A. Magliabechi, 9 May 1687, in *Clarorum Belgarum ad Ant. Magliabechium nonnullosque alios epistolae ex autographis in Biblioth[eca] Magliabechiana, quae nunc Publica Florentinorum est adservatis descriptae*, 2 vols., Florence 1745 [hereafter *Clar. Belg.*], Vol. II, p. 168–169. Magliabechi has sent a letter to Cunningham care of Gronovius, but Gronovius is replying that Cunningham has now left this city, but is reported to be going to Germany, so that Gronovius will keep the letter from Magliabechi to Cunningham for the moment. Kelly, M.A. thesis, p. 38–39, shows that Cunningham and Lord George left for Germany in early April 1687. Magliabechi's letter may have been prompted by one from Jacob Gronovius: J. Gronovius to A. Magliabechi, 3 Jan. 1687, Biblioteca Nazionale Centrale, Firenze [hereafter cited as Firenze, BNC], Magl. VIII, S. II, T. II, fol. 4 (nr. 4) (I owe this and all subsequent citations to the Magliabechi correspondence to the kindness of Dr Tammo Wallinga). On Magliabechi, see, e.g., E. Cochrane, *Florence in the Forgotten Centuries, 1527–1800: A History of Florence and the Florentines in the Age of the Grand Dukes*, Chicago 1973, p. 267–268.

122. J. Gronovius to A. Magliabechi, 3 Jan. 1687, Firenze, BNC, Magl. VIII, S. II, T. II, fol. 4 (nr. 4).

123. *Journal of John Erskine of Carnock*, p. 218.

124. Kelly, M.A. thesis, p. 63.

125. See [Fall], *Memoires of My Lord Drumlangrig's and his Brother Lord William's Travells*, p. 3–12.

initially study, will also have influenced the Duke in making this appointment.

The researches of Kelly have revealed the events of the next few years in Cunningham's life¹²⁶. Cunningham and Lord George passed a couple of days in Cambridge, during which there was an invitation to dine with the Master of St. John's College (an office formerly occupied by Bishop Turner), before leaving for the Netherlands through Harwich¹²⁷. The two went first to Utrecht in 1686, where Cunningham had studied law¹²⁸. Utrecht was preferred to Leiden because of 'the most wholsom Aire'; Queensberry, who was understandably solicitous of his son's health, was quite specific about this¹²⁹. Cunningham taught Roman law in private to Lord George, who also attended some of the classes of the professors at the university¹³⁰. One important feature of their life in Utrecht was visiting bookshops and attending auctions so that Cunningham could initiate his charge into the study of books¹³¹. He managed to inspire his pupil with his own bibliomania and Lord George started to collect an important library under Cunningham's guidance.

The pair next travelled to Heidelberg in late April 1687, where Lord George matriculated at the university and took classes on the law of nature and nations, while continuing to study law privately with Cunningham. A move to Straßburg followed in April 1688, and then one to Basel in August of the same year. The established pattern of Lord George attending some classes with local professors, while being instructed by Cunningham, was maintained¹³². In mid-September of the next year, after some months at Geneva, they travelled to Italy, visiting Milan, Florence, Rome, Naples, Bologna, Venice, and Padua¹³³. In Florence in December 1689, the two met Leibniz, who a few years later hoped for the opportunity to meet Cunningham again¹³⁴. While in Rome, Cunningham

126. See Kelly, *The Library of Lord George Douglas*, p. 4–9; idem, *Lord George Douglas*, p. 162–166; idem, M.A. thesis, p. 31–58 (this last contains the most detailed account).

127. Kelly, M.A. thesis, p. 30. The master of St John's was Humphrey Gower. Edward Miller, *Portrait of a College: A History of the College of Saint John the Evangelist Cambridge*, Cambridge 1961, p. 42 remarks that 'St John's came to be, very soon after the Reformation, the high Anglican and Tory college *par excellence* in Cambridge', raising again the interesting issue of Cunningham's associations at this period. It is also interesting to note that St. John's was Richard Bentley's undergraduate college: see, e.g., C.O. Brink, *English Classical Scholarship: Historical Reflections on Bentley, Porson, and Housman*, Cambridge 1986, p. 24–25.

128. Kelly, M.A. thesis, p. 30–31.

129. *Ibid.*, p. 64. For a discussion of British travellers' experiences of the Low Countries at this period, see C.D. van Strien, *British Travellers in Holland During the Stewart Period: Edward Browne and John Locke as Tourists in the United Provinces*, Leiden 1993 (the work is broader in scope than the subtitle might suggest). For a discussion of the life of Scottish students in the Netherlands in Leiden at a slightly later period see idem, *Schotse Studenten in Leiden omstreeks 1700*, Leids Jaarboekje, 84 (1994), p. 133–148.

130. For evidence of Cunningham's instruction of Lord George, see NLS, Adv. MS 28.7.3 which consists of *D. Iustiniani Sacratissimi Principis Institutionum, sive elementorum libri quatuor, notis perpetuis multo, quam hucusque, diligentius illustrati, cura et studio Arnoldi Vinnii*, Leiden 1646, with extensive annotations identified by Kelly as being in the hand of Lord George as well as that of Cunningham.

131. See Kelly, M.A. thesis, p. 33–36.

132. *Ibid.*, p. 36–44.

133. Kelly, M.A. thesis, p. 44–53.

134. K. Müller and G. Krönert, *Leben und Werk von Gottfried Wilhelm Leibniz: Eine*

had to sign a deed of factory on 30 September 1690, appointing his sister Elizabeth to deal with his interests arising out of claims he had to the estates of his father, his brother John, and sister Margaret¹³⁵. The two men stayed in Italy until April 1692, when they returned to the Empire, travelling to Regensburg and Vienna, and thence to Prague, Dresden, and Berlin. From Berlin they passed to Breslau, Cracow, Warsaw, Lublin, and Danzig. From there they travelled via Copenhagen and Hanover back to Amsterdam, before heading for England towards the end of 1692. They returned north home to Scotland in January 1693¹³⁶.

Queensberry granted Cunningham a discharge for his intromissions with the Duke's funds at his home in Sanquhar on 10 February 1693¹³⁷. Cunningham remained in Scotland with his pupil, however, as Lord George Douglas was one of the witnesses of the entail over the estate of Block that Cunningham executed on 7 March 1693, settling it on his own heirs, then on those of his brother Charles, and then on those of his sister Elizabeth. The deed was signed in the Canongate, making it likely that the two men were staying there in Queensberry's magnificent town house¹³⁸. Lord George's death in the course of 1693 (probably in July) may well have prompted Cunningham's gift of two books to the University of Glasgow, the young man's *alma mater*, in October of that year¹³⁹. What to do with the library collected by Lord George under Cunningham's guidance must have posed a problem. Rather than keep it, Lord George's father eventually decided to donate it to the Advocates' Library in Edinburgh. Cunningham was in Scotland to hand the books over to the Library on the Duke's behalf in 1695¹⁴⁰. In the same year, in commemoration of his dead pupil, he donated a copy of the suppressed work of the Spanish heretic Servetus to the library of the University of Edinburgh¹⁴¹. This treasure is one of only three known copies, and the magnificence of the gift testifies to the bibliophile Cunningham's affection and respect for Lord George¹⁴².

There can be little doubt that these seven years of travel were as important for Cunningham as for Lord George. While he evidently already had a measure of reputation in the Republic of Letters, he made useful contacts and was introduced to a number of distinguished individuals whom he would not otherwise have had the opportunity to meet. Thus, as well as Leibniz, he met many other scholars and gained the *entrée* to men such as Ezechiel Spanheim and Samuel von Pufendorf¹⁴³.

The library of over 800 books collected by Lord George is testimony to

Chronik, Frankfurt am Main 1969, p. 99; G.W. Leibniz to T. Burnett, 24 Aug. 1697, in Leibniz, *Opera omnia*, Vol. VI, p. 256–264 (scroll in Niedersächsische Landesbibliothek (hereafter NSLB), LBr. 132, fol. 66–68).

135. NAS, Register of Deeds, RD. 2/72, p. 340–341.

136. Kelly, M.A. thesis, p. 53–59.

137. NAS, Register of Deeds, RD. 2/76, p. 261.

138. NAS, Register of Tailzies, RT 1/8, fol. 83r–86v. The entail was not registered until 1731. On Queensberry House, see J. Gifford, C. McWilliam and D. Walker with C. Wilson, *Edinburgh*, [The Buildings of Scotland], Harmondsworth 1984, p. 217.

139. *Munimenta alme Universitatis Glasguensis*, Vol. III, p. 442.

140. Kelly, *Lord George Douglas*, p. 171; idem, *The Library of Lord George Douglas*, p. 19.

141. M. Servetus, *Christianismi restitutio*, Vienne 1553, EUL, Pressmark Df.8.90.

142. EUL, Register of Donations, MS Da. 1.31, fol. 50.

143. Kelly, M.A. thesis, p. 55.

Cunningham's scholarship and interests¹⁴⁴. Its law books ranged from the works of Bartolus and the *usus modernus* to those of scholars more humanist in their orientation. Though it is difficult to generalise, the collection is not in essence that of a scholar interested in the textual and historical problems of the Digest. Thus, it lacked the appropriate editions for such work – other than those of Haloander and Le Caron – and did not even include the Torelli edition of the *Florentina*. Moreover, important humanist scholars such as Cujas and Hotman are not represented. Given Lord George's future station in life that was no doubt appropriate. The presence of works by Bodin, Cumberland, Hobbes, Grotius, Descartes, and Pufendorf testifies to the aspirations to philosophical and political learning appropriate for a future diplomat, as do several works on history. The library also contained collections of the classics, Roman history, and Roman antiquities. As well as any intrinsic interest, such works were considered necessary for a proper appreciation of Roman law. Around one half of the books devoted to antiquities is a 'particularly fine' collection on numismatics, in which Lord George had demonstrated a special interest¹⁴⁵. Among good contemporary editions of the classics by Dutch scholars such as I. Vossius and J.G. Graevius can be spotted occasional treasures such as the Venetian edition of Ovid of 1474. Such a work and the good quality imprints from presses such as those of Aldus Manutius (including the Aristophanes of 1498), Stephanus, and Plantijn are a reflection of Cunningham's bibliographical skills. Indeed, Kelly comments that the editions of classics and ancient history in the library are generally to be 'noted for their quality rather than quantity'¹⁴⁶. Also of note in Lord George's library is the number of books in Italian: some sixteen per cent of the total¹⁴⁷.

This period gives our first significant insights into Cunningham's intellectual preoccupations. When he met Leibniz in Florence in 1689, he had outlined to the German *savant* a plan for a study of the history of the Anglo-Saxon language¹⁴⁸. There is no indication whether he ever did any work on this project, typical of his philological and historical interests. His skills in and knowledge of Anglo-Saxon are unknown; he knew enough, however, to buy the 'Moore Bede' (along with other manuscripts) in France, after the Treaty of Rijswijk of September 1697 once more made it easy for King William's subjects to visit Louis XIV's kingdom. This was an eighth-century Anglo-Saxon manuscript, which Cunningham subsequently sold to the famous book collector and bibliophile, John Moore, the Bishop of Norwich (1691–1708) and then of Ely (until 1714)¹⁴⁹. The study of Anglo-Saxon is never again encountered; perhaps it was an idea conjured up in discussion with the polymath Leibniz and never seriously

144. See the catalogue of the library in Kelly, *The Library of Lord George Douglas*, p. 23–137.

145. *Ibid.*, p. 16.

146. *Ibid.*

147. *Ibid.*, p. 16–18.

148. G.W. Leibniz to T. Burnett, 17 Mar. 1696, in Leibniz, *Opera omnia*, Vol. VI, p. 231–235 at p. 235; G.W. Leibniz to T. Burnett, 24 Aug. 1697, in Leibniz, *Opera omnia*, Vol. VI, p. 256–264 at p. 256 (scroll in NSLB, LBr. 132, fol. 66–68).

149. See H. Wanley to J. Smith, 28 Aug. 1703, in *Letters of Humphrey Wanley, Palaeographer and Anglo-Saxonist, Librarian 1672–1726*, ed. by P.L. Heyworth, Oxford 1989, p. 223. The MS is now CUL, MS Kk.v.16.

considered or embarked upon. His library at his death did not contain the works necessary for such a project¹⁵⁰.

In 1698, Dr Lister described Cunningham as 'a very Learned and Curious Man in Books'¹⁵¹. This was evidently what most struck observers about him. Thus, Wodrow described him as a man who 'understood the editions of books nicely'¹⁵². There can be little doubt but that Cunningham used his travels with Lord George to collect for his own library as well as assisting his charge to acquire for him. Between the death of Lord George in 1693 and the end of 1695 Cunningham probably returned to Italy and again visited Florence¹⁵³. While it is possible that he was once more acting as tutor to a young nobleman, he was almost certainly collecting books. The donation of the Servetus to Edinburgh University Library indicates the quality of the works with which he was concerned, whether as dealer or collector.

Much of Cunningham's personal book collecting was probably directed towards the major project concerning Roman law on which he had determined by the end of the 1680s. Unfortunately, our information about it is very imperfect for this period. The only source is a letter of 1689 from Robert Moray, a former student at Utrecht, to Cornelis van Eck, Professor of Law there. Writing from Edinburgh, Moray informed van Eck that a certain Cunningham, whom he did not personally know, was reported to be planning a commentary on the *universum jus Romanum*, in which he had undertaken to put the whole of the law in a better order, lucidly and precisely disentangling obscurities and cruxes, and settling conflicting laws¹⁵⁴. If it is plausible to assume Moray was writing of our Cunningham, it is none the less difficult to gauge the accuracy of his report, which was probably based on a letter from Cunningham (who had been on the Continent since 1686) to an unknown correspondent in Edinburgh. This said, in so far as we can rely on Moray, it seems that Cunningham's proposal was different from his later ambitions. His current aim seems to have been to impose a

150. *Bibliotheca Cuningamia, continens selectissimos, rarissimosque omni in lingua libros theologicos, juridicos, medicos, philosophos, geographos, chronologos, historicos veteres et recentiores, poetas, inter quos plurimi antiquae & primae editionis, antiquarios, numismaticos, oratores, literatores, criticos, lexicographicos, bibliothecarios, epistolographos & miscellaneos. Hos omnes multo judicio, vigilantia ac labore collegit celeberrimus ac eruditissimus vir D. Alexander Cuningamius, jurisconsultus et polyhistor eximius*, Leiden 1730. The catalogue has two sequences of pagination with two sets of signatures, the second sequence of both beginning with '[Libri] Theologici in Octavo & Minora Forma'. There are also two sets of numbering of the lots. Pinpoint citations will therefore specify the section as well as page.

151. M. Lister, *A Journey to Paris in the Year 1698*, 3rd ed., London 1699, p. 101.

152. R. Wodrow, *Analecta: or, Materials for a History of Remarkable Providences; Mostly Relating to Scotch Ministers and Christians*, ed. M. Leishman, 4 vols., [Maitland Club], Edinburgh 1842–1843, Vol. IV, p. 152.

153. J.G. Graevius to A. Magliabechi, 9 June 1698, *Clar. Belg.* Vol. I, p. 318 (mentioning that Magliabechi saw Cunningham about three years ago); Lister, *A Journey to Paris*, p. 101 (mentioning an encounter with Cunningham in Paris in the first half of 1698 and describing Cunningham as having 'been lately at Rome', which seems likely to have been before 1696). Lister's account supports the suggestion that Graevius's letter refers to the civilian and critic; moreover, as noted, Graevius was close to Cunningham whom he had probably taught at Utrecht.

154. R. Moray to C. van Eck, 23 Aug. 1689, UB Utrecht, MS 1000 7B4.

more rational structure on the *Corpus iuris civilis*, resolving difficulties with the texts. Depending on how one interprets ‘*totam jurisprudentiam in meliorem ordinem redigere*’, this sounds a work more of the nature of the rationalising projects associated with Hugues Doneau, François Douaren, and Antoine Favre, rather than anything else. This may explain why the library Lord George Douglas collected under Cunningham’s guidance did not contain works such as Labitte’s *Index* and the Torelli edition of the *Florentina*, nor a single work of Jacques Cujas. If Cunningham’s concern was with systematisation of the *ius civile*, he must not yet have been troubled with the state of the texts of Roman law¹⁵⁵. It is possible that his ideas were starting to develop in this direction, however, since a letter to Leibniz dating from this period discusses problems with readings in the edition of the Torelli¹⁵⁶. Moreover, his knowledge of manuscripts was such that he had been able to impart to Lord George Douglas the palaeographical skills to read the *Florentina* when shown it towards the end of 1689¹⁵⁷. Perhaps the very sight of the *Florentina* had inspired in him a more ambitious aim.

3. – Tutor to John, Lord Lorne, and the maturing of the project, 1694–1700

By the end of 1694, Cunningham had been selected as the man who was to accompany John, Lord Lorne, on his foreign travels¹⁵⁸. That Cunningham should have been chosen as tutor to the eldest son and heir of the Earl and (later) first Duke of Argyll is testimony to his high reputation, even if he had been a classmate of Argyll at Edinburgh. The success of his travels with Lord George must have impressed. His general learning, his experience of travel, and his skill at languages all made him an ideal tutor. He also seems to have had the ability to get on with young men. Indeed, his old friend Dr Fall also proposed him in October 1694 as a suitable man to accompany abroad the young fourth Earl of Roxburghe¹⁵⁹.

Cunningham’s appointment as tutor to Lorne provided him with further important contacts and access to the highest political circles, while presenting new opportunities for patronage and travel to pursue scholarly interests and book

155. Stolte and van den Bergh have also pointed out that Cunningham had not yet decided to produce an edition and suggest he aimed at a systematic commentary and palinogenesis: Stolte, *Henrik Brenkman*, p. 14 note 49; van den Bergh, *Gerard Noodt*, p. 78 note 18. While possible, I am not convinced that he intended a palinogenesis; it depends on how one interprets ‘*in meliorem ordinem redigere*’. The lack of works in Lord George’s library necessary for palinogenetic studies such as J. Labitte, *Index legum omnium quae in Pandectis continentur*, Paris 1557 and A. Agustín, *De nominibus propriis τοῦ Πανδέκτου Florentini*, Tarragona 1579, (although the latter was very rare) supports the idea that Cunningham was not interested in palinogenesis.

156. A. Cunningham to G.W. Leibniz (n.d.), NSLB, LBr. 186, fol. 1 (if undated, it can probably be placed to before 1693, since Leibniz has written on the letter ‘il est avec le jeune comte Douglas’).

157. Kelly, M.A. thesis, p. 45.

158. J. Fall to Earl of Tweeddale, 22 Oct. 1694, NLS, Yester Papers, MS 7017, fol. 90–91.

159. *Ibid.* The office seems to have fallen to someone else. Roxburghe in fact died abroad in Brussels in July 1696 (aged 19): *Scots Peerage*, Vol. VII, p. 349–350.

collecting. Indeed, it is already possible to place Cunningham in some of the most interesting intellectual circles in England. Lord George had been admitted to the Royal Society of London at the end of 1692, which must have opened up a number of opportunities for his *praeceptor*¹⁶⁰. Cunningham was involved in the linked intellectual and political circles that included John Locke, Robert Boyle, and Joseph Addison. Thus, Francis Gastrell, an associate of the bibliophile Robert Harley, and Boyle Lecturer in 1697, introduced Cunningham to Christopher Codrington¹⁶¹. Cunningham's sale of books and manuscripts to the latitudinarian Bishop Moore, devotee of the new scientific learning and patron of Samuel Clarke, is also suggestive of the Scotsman's connections¹⁶². Cunningham was evidently on good terms with John Locke¹⁶³; for example, at the end of 1696 and beginning of 1697, he became involved in discussion of Leibniz's ideas with the English philosopher, acting (with Thomas Burnett of Kemnay) as a kind of intellectual intermediary between the two men¹⁶⁴. Leibniz was glad to

160. Kelly, *The Library of Lord George Douglas*, p. 9.

161. T. Burnett to G.W. Leibniz, 20 Oct. 1700, NSLB, LBr. 132, fol. 102–103; E. Craster, *The History of All Souls College Library*, ed. E.F. Jacob, London 1971, p. 68–69.

162. On Moore and his connections with Cambridge, see J. Gascoigne, *Cambridge in the Age of the Enlightenment*, Cambridge 1989, p. 85–88; see also C. Moore, 'The Father of Black-Letter Collectors', *Memoir of the Right Reverend John Moore, D.D., Lord Bishop of Ely (Translated from Norwich), Born 1646, Died 1714*, London 1885.

163. When Cunningham became known to Locke is uncertain. In 1691, Locke mentioned to Edward Clarke one Cunningham as a possible tutor in the French language: 'He is a Scotch man and newly returned from travelling with a yonge Gent who as I think died beyond sea'. See J. Locke to E. Clarke, 7 Dec. 1691, *The Correspondence of John Locke*, ed. E.S. de Beer, 8 vols., Oxford, 1976–89, Vol. IV, p. 339. The editor of Locke's correspondence here (note 4) identifies this man as our Alexander Cunningham; this is not so, as he was still in Italy with Lord George Douglas. The Cunningham mentioned in this letter of 1691 was an acquaintance of Martha Lockhart, who was one of Queen Mary's Ladies in Waiting. Later, a Cunningham acquainted with Martha Lockhart is found, in January 1694, trying to solicit Locke, among others, to use his influence to recommend the mathematician Nicholas Fatio de Duiller to Lady Russell: M. Lockhart to J. Locke, 12 Jan. 1694, N. Fatio de Duiller to J. Locke, 25 Jan. 1694, M. Lockhart to J. Locke, 27 Jan. 1694, *Correspondence of Locke*, Vol. IV, p. 778, 792, 796–797. It is possible that this is the same Cunningham as the first mentioned by Locke, though it could be our Cunningham. B. Furlly to J. Locke, 10 Sept. 1692, *Correspondence of Locke*, Vol. IV, p. 512, transmits Mr Leers's thanks to Locke for the catalogue passed on to him by Cunningham. Leers was a well-known bookseller in Rotterdam. At this time, our Cunningham was *en route* for Copenhagen from Warsaw and had only reached Danzig by 8 September (Kelly, M.A. thesis, p. 56). Thus, though our Alexander Cunningham certainly knew Leers (see T. Burnett to G.W. Leibniz, 20 Nov. 1705, NSLB, LBr. 132, fol. 149–150), again this seems unlikely to be him. The editor of Locke's letters (note 2, *Correspondence of Locke*, Vol. VI, p. 590) has relied on R.H. Story, *William Carstares: A Character and Career of the Revolutionary Epoch (1649–1715)*, London 1874, p. 257–258, which to some extent confused Cunningham the civilian and critic with the historian and ambassador. Some of the references in Locke's correspondence may be to the historian, who apparently was to tutor to the Earl of Hyndford from 1692–1695 (DNB).

164. G.W. Leibniz to T. Burnett, 11 Feb. 1697, in Leibniz, *Opera omnia*, Vol. VI, p. 240–249 at p. 243 (scroll in NSLB, LBr. 132, fol. 46–49 at 47v). Which ideas of Leibniz he discussed with Locke are not revealed; but since Leibniz clearly suspected Locke would disagree with his position, they probably concerned the criticisms he had of the English scholar's *Essay Concerning Human Understanding* of 1690. See, e.g., G.W. Leibniz to T. Burnett, 22 Nov. 1695, in *Opera omnia*, Vol. VI, p. 226–231. See N. Jolley, *Leibniz and Locke: A Study of the New Essays on Human Understanding*, Oxford 1984, p. 36–42 for aspects of this, although Jolley does not mention Cunningham's role.

be back in contact with Cunningham, and asked Burnett 'above all to make known to Mr Cunningham that I was delighted to receive good news of his health and of his remembrance which will always be dear to me'¹⁶⁵. The fact that Cunningham was 'famous for his skill at the chess, and one of the first-rate in Europ', will also have given him vital access to patronage and support¹⁶⁶. Here a crucial figure for Cunningham was probably Charles Spencer, 3rd Earl of Sunderland, a keen chess player. Cunningham was part of the group, including Sunderland, who congregated to play chess in Slaughter's Coffee House in St. Martin's Lane in London. Other politically important members of this group were the Earl of Godolphin and Lord Elbank¹⁶⁷. It is also probable that, during this period, Cunningham came to know Richard Bentley, who, after serving as tutor to the second son of Edward Stillingfleet, Dean of St Paul's and later Bishop of Worcester, became one of the King's Chaplains in 1695 as well as King's Librarian; Bentley and Cunningham were certainly moving in similar and inter-connecting circles¹⁶⁸.

Lorne had been born in 1680 and in 1694 was thought to be still too young to travel abroad¹⁶⁹. How closely Cunningham initially attended Lorne is unclear. For example, he may well have been with Argyll (and Lorne) in Edinburgh in 1695 when he presented Lord George Douglas's books to the Faculty of Advocates and the Servetus to Edinburgh University Library. The Earl would have been in Scotland for the Parliament of that year¹⁷⁰. Cunningham can certainly be traced spending much of 1696 in London, presumably in the capacity of tutor to Lorne¹⁷¹. In 1697, apparently after some delay, he left London for the Low Countries, probably with his charge¹⁷². On behalf of Burnett, he carried with him some books for Leibniz, others of which had been entrusted to another Cunningham, probably Cunningham the historian¹⁷³. This prompted Leibniz to request in his reply to Burnett: 'Give me a method, Sir, of distinguishing between these two Messieurs Synonymes, and tell me which of them is the one whom I have the honour of knowing'¹⁷⁴.

165. G.W. Leibniz to T. Burnett, 17 Mar. 1696, 27 July 1696, in Leibniz, *Opera omnia*, Vol. VI, p. 235, 240.

166. Wodrow, *Analecta*, Vol. IV, p. 152.

167. Murray, *History of Chess*, p. 846.

168. Brink, *English Classical Scholarship*, p. 25–28.

169. J. Fall to Earl of Tweeddale, 22 Oct. 1694, NLS, Yester Papers, MS 7017, fol. 90–91: it was Lorne's age that made Fall think that Cunningham might be able to go abroad with Lord Roxburghe.

170. This suggests that Cunningham's likely visit to Florence between 1693 and 1698 possibly took place in 1694.

171. See T. Burnett to G.W. Leibniz, 27 Jan. 1696, NSLB, LBr. 132, fol. 32–33; G.W. Leibniz to T. Burnett, 17 Mar. 1696, in Leibniz, *Opera omnia*, Vol. VI, p. 231–235 (the scroll copy in NSLB, LBr. 132, fol. 35–36 is dated 17 Apr. 1696); W. Carstares to Dunlop, 3 Nov. 1696, in Story, *William Carstares*, p. 257–258; T. Burnett to G.W. Leibniz, 30 Nov. 1696, NSLB, LBr. 132, fol. 42–43.

172. T. Burnett to G. W. Leibniz, 4 May 1697, NSLB, LBr. 132, fol. 54.

173. *Ibid.*

174. G.W. Leibniz to T. Burnett, 18 May 1697, printed in Leibniz, *Opera omnia*, Vol. VI, p. 249–255 at 255 (scroll in NSLB, LBr. 132, fol. 55–57). The survival of correspondence between Leibniz and the historian makes it likely that the latter was the second Cunningham (yet unknown to Leibniz) carrying books: see A. Cunningham to G. W. Leibniz, 2, 17, Feb. 1703, and n.d., NSLB, LBr. 186, fol. 4–8 and 13.

There is little direct evidence on how Cunningham and his new pupil got on together. Lorne was to become a general of distinction and a powerful statesman; he was far from a philistine, however, so that too much stress should perhaps not be put on the near-contemporary description of him as having 'no great Inclination for close Study' and as not being persuadable 'to give much application to Books'¹⁷⁵. Certainly he and Cunningham spent a considerable time together. On the other hand, by the middle of 1697, the Earl of Argyll had had to write to Cunningham 'to lay aside any thought he had for some time yet of leaving my son'¹⁷⁶. Part of the problem at this time was that Lorne had earlier been appointed a Colonel of a Regiment participating in campaigns in the Low Countries in the Nine Years War. As the peace treaty approached, Lorne became concerned about the fate of his regiment and wished to join it. He clearly found the excitement of military life rather more enticing than that of foreign travel with a scholar. Cunningham had to write to Carstares to ask him to use his influence with Lorne, who had developed 'a more than ordinary lightnes' since coming abroad, to persuade him not to go to his regiment but to stay with Cunningham¹⁷⁷. Meeting with the greater approval of his father, Lorne also spent some time in the retinue of Hans Willem Bentinck, Earl of Portland, who was in the Low Countries for the negotiations leading to the Treaty of Rijswijk¹⁷⁸. Cultivation of Portland was important to Argyll, because of the influence he exercised over the administration of Scotland¹⁷⁹. By October, Lorne had gone to join his regiment, now with the approval of Cunningham, who may have felt glad to be relieved of his charge, as it allowed him more freedom to deal with his own concerns¹⁸⁰. No doubt there had been some agreement between the young nobleman and Cunningham acceptable to the Earl. Cunningham later reported that he had at one stage left Lorne for half a year at Brussels while he returned to London; this was probably the occasion¹⁸¹.

One of Cunningham's concerns – unsurprisingly – was book collecting. He asked Carstares in October 1697 to carry over some books to England for him, passing them off as Carstares' own, in order to avoid payment of duty; Cunningham was confident that Carstares, as one of the King's Chaplains, could bring them into England for free. Cunningham was also considering whether or not to visit Paris – now accessible again to William's subjects through the Treaty of

175. R. Campbell, *The Life of the Most Illustrious Prince John, Duke of Argyle and Greenwich*, London 1745, p. 31.

176. Argyll to W. Carstares, 10 July 1697, *Carstares' State-Papers*, p. 316–317.

177. A. Cunningham to W. Carstares, 4 Aug. [1697], EUL, MS Dk.1.1², fol. 212.

178. Argyll to A. Cunningham, 3 Aug. 1697, found quoted in P. Dickson, *Red John of the Battles: John, 2nd Duke of Argyll and 1st Duke of Greenwich, 1680–1743*, London 1973, p. 24. Dickson assumes that Lorne was with Portland in Paris at the time of this letter. This is wrong, as Portland only went to Paris as Ambassador in January 1698. See also, e.g., H. and B. van der Zee, *William and Mary*, London 1973, p. 425–430. Dickson has also followed the near-universal error of thinking that it was Cunningham the historian and ambassador who was Lorne's tutor: see *op. cit.*, p. 23. Her access to the Argyll family archives at Inverary (currently closed) none the less makes her evidence useful.

179. P.W.J. Riley, *King William and the Scottish Politicians*, Edinburgh 1979, p. 129–131.

180. A. Cunningham to W. Carstares, 20 Oct. 1697, *Carstares' State-Papers*, p. 360–361.

181. T. Burnett to G.W. Leibniz, 20 Nov. 1705, NSLB, LBr. 132, fol. 149–150.

Rijswijk – before returning to London¹⁸². As well as meeting French *savants*, such a visit would also have been devoted to further book buying. Some of this activity would have been for private collectors at home, either on their behalf or, on a more speculative basis, for sale to them. This was work for which Cunningham was well skilled, since the taste of the great noble collectors in England had recently turned to first and early editions of the classics, an area of book collecting that had hitherto been the near-exclusive province of the scholar and editor¹⁸³.

Cunningham's purchasing of books was now also directed towards building up his own collection of works on Roman law. His letter to Carstares of October 1697 makes this explicit. He talked of 'the project', for which he asked Carstares to use his influence with the Scottish Secretary, Sir James Ogilvy, later Viscount and then Earl of Seafield, and the Scots nobility and gentry at London. He also told Carstares that he had 'bought in this country a considerable number of books, in order to the carrying of it on'¹⁸⁴. What Cunningham wished Carstares to do was lobby in favour of the proposed edition of the *Corpus iuris* preparatory to the Parliament of 1698 from which he would seek funding¹⁸⁵. He also sought support from Dutch scholars. When in the Netherlands in 1697, he had discussed this project with Cornelis van Bijkershoek, asking not only for the assistance of the Dutch scholar's recently acquired manuscript of the *Digestum vetus*, but also for letters endorsing his ambitions to be sent in his support to Scotland¹⁸⁶.

In the first half of 1698 Cunningham visited Paris, perhaps accompanied by Lorne¹⁸⁷. It was probably on this visit that he bought the manuscripts, including that of Bede, subsequently sold to Bishop Moore¹⁸⁸. In June of that year, Graevius reported the '*Nobilissimus Cuninghamius*' to Magliabechi as returning to Italy 'now with a most noble Englishman' (presumably the Scot, Lord Lorne)¹⁸⁹. Lorne's biographer describes him, following the Treaty of Rijswijk, after an 'interval at home', as once more going abroad, visiting various European capi-

182. A. Cunningham to W. Carstares, 20 Oct. 1697, *Carstares' State-Papers*, p. 360–361.

183. See A.K. Swift, *The Formation of the Library of Charles Spencer, 3rd Earl of Sunderland (1674–1722): A Study in the Antiquarian Book Trade*, 2 vols., unpublished D.Phil. thesis, University of Oxford 1986, Vol. I, p. 4–11.

184. A. Cunningham to W. Carstares, 20 Oct. 1697, *Carstares' State-Papers*, p. 360–361.

185. See below.

186. C. van Bijkershoek to C. van Eck, 31 July 1697, UB Utrecht, MS 1000 7B3. The manuscript in question is the famous University Library Leiden [hereafter UB Leiden] BPL 6C, on the acquisition and provenance of which see G.C.J.J. van den Bergh, *Two Letters of Cornelis van Bijkershoek (1673–1743) Concerning his Acquisition of a Manuscript of the Digestum Vetus (Now University Library Leiden BPL 6C) and a New Source for the Study of Johan de Witt*, *Lias*, 11 (1984), p. 277–286; idem, *What became of the Library of the Grand Pensionary Johan de Witt (1625–1672)? With Special Reference to Law Books*, *Tijdschrift voor Rechtsgeschiedenis*, 66 (1998), p. 151–170 (arguing against J. A. Gruys, *The Library of 'Janus Albinus' at Auction: Mystification, Misunderstanding and Reality*, *Lias*, 12 (1985), p. 137–146).

187. Lister, *A Journey to Paris*, p. 101.

188. See H. Wanley to J. Smith, 28 Aug. 1703, in *Letters of Humphrey Wanley*, p. 223.

189. J.G. Graevius to A. Magliabechi, 9 June 1698, *Clar. Belg.*, Vol. I, p. 318. See note 153 above for the argument that this refers to the civilian and critic.

tals, including Rome, in the company of Cunningham. She dates these travels very loosely to 1699 and 1700¹⁹⁰. It is thus possible, but perhaps unlikely, that the visit to Paris was followed by a trip to Italy.

In fact, Cunningham (and probably Lorne) returned to Scotland in the second half of 1698. Thus, in August 1698, Cunningham presented a petition to the High Commissioner and Estates of Parliament, which, on 19 August, Parliament remitted to the Committee for the Security of the Kingdom for consideration. Cunningham sought £200 sterling for six years to sustain his project on the *Corpus iuris civilis* 'in regard that so great a Work, which shall be finished in the space of Six Years, will be very Chargeable to the Undertaker'¹⁹¹. It was to support this petition that, in 1697, Cunningham had encouraged Carstares to lobby the Scots nobility and gentry and had asked van Bijkershoek for supporting letters from the Netherlands. The Committee for the Security of the Kingdom considered the petition on 23 August, and appointed the Lord Advocate and the President to discuss the proposal with Cunningham¹⁹².

The Committee decided on 26 August that Cunningham should be allowed a yearly salary of £150 sterling out of the tax on the tunnage. It therefore recommended to Parliament that he should be allowed £1,800 Scots (that is £150 sterling) out of this tax 'as a yearly fee and sallary as professor of the Civil Law in this Kingdome and that he be nominat professor for that effect'. The committee also remitted 'to the Lords of his Majesties Privie Council to allow the petitioner to go abroad to qualifie himselfe farther for carieing on the work within mentioned for such tyme as they shall think fit'¹⁹³. A draft act was prepared to create a professorship of civil law within the town of Edinburgh, which was to be regulated by the Lords of Council and Session and the magistrates of the town. The appointment was to be in the gift of the crown, with the chair initially supported from the Act on the Tunnage until a more settled endowment could be found. The draft also recommended that the king appoint Alexander Cunningham as first professor and that the Privy Council permit him to go abroad to complete his edition of the *Corpus iuris civilis*¹⁹⁴. This draft was not enacted, however, although the Act anent the Tunnage of that year duly allocated an annual £150 sterling 'as the yearly fee and sallary granted to Mr Alexander Cuninghame as Professor of the Civil Law nominat and designed to that profession'¹⁹⁵. This act was in force for five years. The provision was renewed (at £1,800 Scots) in 1704 for a further five years¹⁹⁶.

Cunningham had well chosen the time to seek financial support. Argyll was a member of the Committee for the Security of the Kingdom. He was currently in political alliance with the second Duke of Queensberry, Lord George Douglas's elder brother. This political alliance was supported by Cunningham's confiden-

190. Dickson, *Red John of the Battles*, p. 26.

191. *Acts of the Parliaments of Scotland*, ed. by T. Thomson and C. Innes, 12 vols., Edinburgh 1814–1875 [hereafter *APS*], Vol. X, p. 145, appendix, p. 27.

192. NAS, PA. 7/16, p. 250 (no. 84a). It is unclear whether the President referred to is the President of the Court of Session, Sir Hew Dalrymple of North Berwick, who was a member of the Committee, or the President of the Council, the Earl of Melville.

193. *APS*, Vol. X, appendix, p. 28; NAS, PA. 7/16, p. 253 (no. 84a).

194. NAS, PA. 7/16, p. 165 (no. 33).

195. *APS*, Vol. X, p. 175–176, c. 37.

196. *Ibid.*, Vol. XI, p. 203, c. 9.

tial correspondent, Carstares, and Portland, whom Lorne had cultivated in the Low Countries¹⁹⁷. With suitable lobbying, the Parliament of 1698 was likely to support the scholar's aims.

One curiosity is Cunningham's appointment as a Professor of Civil Law, when he simply wanted an allocation of funds to allow him to pursue his studies abroad. The Faculty of Advocates had been pressing for some years for the creation of chairs in civil law in Scotland and, in 1695, some of its members had even petitioned Parliament for an allocation of funds to endow such chairs¹⁹⁸. For some reason the plan embodied in the draft act to create a permanent regius chair fell through. This may have been because of the opposition of the members of the Town Council, who, as patrons of the University of Edinburgh, were strongly opposed to the establishment of regius chairs. However this may be, the appointment of Cunningham as professor within the kingdom was probably intended to justify the award of this pension to a protégé of the Queensberry family now under the patronage of Argyll, especially since Cunningham's petition emphasised the benefits of his work to students in making their studies more expeditious: Cunningham never taught¹⁹⁹.

The provision of £150 sterling towards support of Cunningham's studies was generous and would have been of considerable assistance to him in addition to whatever income he may have gained from Block, the profits of his book dealing, and his payment as tutor to Lord Lorne. For example, the total costs of study at Leiden were roughly £100–130 sterling *per annum* at this time²⁰⁰. The need to travel and purchase books meant that Cunningham would need a greater income than this, but the Parliamentary grant would have been invaluable. It should be remembered, however, not only that collection of the tax under the Act anent the Tunnage was erratic and inefficient, but also that, as a charge on the revenue to be thereby raised, Cunningham's studies were very far down the list of projects to which the income was to be allocated in turn. It is unlikely that he gained anything approaching the full sums these provisions might suggest²⁰¹.

It was probably during this visit to his homeland that Cunningham is found borrowing (and losing and having to replace) books from the Library of the University of Edinburgh²⁰². Robert Wodrow's recollection of his father and Cun-

197. Riley, *King William and the Scottish Politicians*, p. 125–131.

198. *The Minute Book of the Faculty of Advocates*. Volume 1: 1661–1712, ed. J.M. Pinkerton, Edinburgh 1976 [hereafter *Advocates' Minutes*, Vol. I,] (= Stair Society Vol. 29), p. 133 (2 Mar. 1694), p. 140 (18 Jan. 1695), p. 160 (24 Dec. 1695).

199. J.W. Cairns, *John Spotswood, Professor of Law, A Preliminary Sketch*, in W.M. Gordon (ed.), *Miscellany Three*, Edinburgh 1992 (= Stair Society, Vol. 39), p. 131–159 at 133–134.

200. See J.S. Shaw, *The Management of Scottish Society 1707–1764: Power, Nobles, Lawyers, Edinburgh Agents and English Influences*, Edinburgh 1983, p. 27–28.

201. Thus, in 1704, John Adair, the geographer, complained in a petition to Parliament that he had received little under the allowance from the Act anent the Tunnage: NAS, PA 7/19, p. 133–134 (no. 55). See also K. Cavers, *A Vision of Scotland: The Nation Observed by John Slezer 1671 to 1717*, Edinburgh 1993, p. 73.

202. Irving, *Memoirs of Buchanan*, p. 403 states that a copy of P. Voet, *Jurisprudentia sacra instituta juris Caesarei cum divino, consuetudinario atque canonico in multis collatione*, Amsterdam 1662, in Edinburgh University Library, contains an occasional note to the effect: 'Returned for that which was lost by Mr. Alexr. Cuninghame of Block, Profess. of Law'. This must be after the Act of Parliament in 1698, and probably before the

ningham playing chess together around 1700 probably also reflects this visit in 1698²⁰³. By March 1699, Cunningham was back in London, planning a visit to Locke in the country, before once more going abroad²⁰⁴. Cunningham's illness at the beginning of April delayed this visit²⁰⁵. By mid-May it had taken place and Cunningham was now preparing to leave for the Netherlands, with a departure scheduled for the end of the month²⁰⁶. By mid-June, Jean Le Clerc, who was close to both Locke and Cunningham, was awaiting the Scotsman's arrival with the portrait of Locke to be used in printing the French translation by Pierre Coste of Locke's *Essay Concerning Human Understanding*²⁰⁷. By early July at the latest, Cunningham was in the Low Countries, visiting J.-B. du Bos, Philippus van Limborch and Frans van Limborch (to whom Cunningham carried a letter from Locke)²⁰⁸. Cunningham's subsequent movements in 1699 are obscure. He presumably continued abroad, perhaps travelling to France and Italy²⁰⁹. In 1705, Thomas Burnett recalled Cunningham travelling to Italy with Lord Lorne 'in the year 1697 or thereby' and returning a second time to that country with him²¹⁰. While it is possible that the trip to Italy was made in 1697, this seems unlikely given the known movements of the pair in that year; if not, then the second half of 1699 and early 1700 is a likely candidate for the date of the first visit²¹¹. By mid-June 1700, Cunningham was back in England, though planning a trip to France²¹². Perhaps this led to the second visit to Italy with Lorne.

Despite all this travel and dealing with Lord Lorne, Cunningham's plans for his edition and preparation were taking on a clear shape. Van Bijnkershoek ex-

Spring of 1699, when he was in London. (Conceivably, it represents a later visit, but none can be traced). The Library contains two copies of this work, pressmarks D.22/48 and D.22/45. The first of these can be traced as being in the Library long before this date. The second contains eighteenth-century Edinburgh pressmarks, but, although in an eighteenth-century binding, has nineteenth-century endpapers. It bears no traces of the 'occasional note'. If it is the copy returned by Cunningham, since Irving wrote, the note has vanished, perhaps because it was on the old endpaper.

203. Wodrow, *Life of James Wodrow*, p. 174. Idem, *Analecta*, Vol. IV, p. 152 dates this visit to 'about the 1700 or 1703'. It also notes that this took place when he was the Librarian of Glasgow University and that Cunningham visited the Library and displayed his learning about books. He held this post from 1697 to 1701; this means that 1703 is not a possible date. It is also most unlikely that Cunningham visited Scotland in 1700 or 1701.

204. T. Burnett to J. Locke, 17 Mar. 1699, *Correspondence of Locke*, Vol. VI, p. 586–590.

205. A. Churchill to J. Locke, 8 Apr. 1699, *ibid.*, Vol. VI, p. 590–591.

206. A. Cunningham to J. Locke, 15 May 1699, *ibid.*, Vol. VI, p. 624.

207. J. Le Clerc to J. Locke, 18 June 1699, *ibid.*, Vol. VI, p. 636–638; see also P. Coste to J. Locke, [ca 12 Aug. 1699], *ibid.*, Vol. VI, p. 666–669.

208. J.-B. du Bos to J. Locke, 7 July 1699, P. van Limborch to J. Locke, 3 Aug. 1699, F. van Limborch to J. Locke, 3 August, 1699, *ibid.*, Vol. VI, p. 647–648, 660–662, 663–664.

209. The letter from A. Cunningham to A. Magliabechi, 6 June 1699, Firenze, BNC, Magl. VIII, 1160, fol. 81 and 84 (nr. 46) is not by Cunningham the critic (although the content is plausible for him). The handwriting shows it is by Cunningham the historian and ambassador.

210. T. Burnett to G.W. Leibniz, 20 Nov. 1705, NSLB, LBr. 132, fol. 149–150.

211. Dickson, *Red John of the Battles*, p. 26 describes them as travelling abroad in 1699 and 1700.

212. J. Locke to N. Toinard, 5 and 11 June 1700, *Correspondence of Locke*, Vol. VII, p. 88–90.

plained to van Eck in 1697 that Cunningham's proposed edition of the *Corpus iuris* would be enriched with the variant readings of all the editions published after the *Florentina*²¹³. The petition to Parliament seeking financial support supplemented this:

That he has made some progress in a Work upon the Civil Law in Four Volumes in Folio; In the 1st. and 2d. Volumes whereof, the Text shall be far more correctly published, than it has yet been; And the Notes upon it shall explain about Two Thousand Passages, which have not been Expounded at all, or which have not been rightly Expounded, either in the Amsterdam edition in Two Volumes in Folio, or in the Edition with the Gloss in Five Volumes in Folio.

The 3d. Volume shall contain the Reconciliations of the opposite Laws: And it shall be written in such a Method, That this part of the Study of the Civil Law, will become Pleasant, Useful, and Necessary.

The 4th. Volume shall be a System of the Digests, by way of Principles and Consequences: Which way of Writing (tho not yet attempted) will mightily contribute to the enlarging of the Understanding; and it will likewise render the Study of the Civil Law much less burdensome to the Memory.

Now in regard that the foresaid Four Volumes, will give a truer and fuller view of the Civil Law, than all the Books yet Extant have done, and that they will save the Students of it a great deal of Time and Money: Seeing with the help of these few Books, one may acquire a more perfect knowledge of it in three or four Years, than he could do in Ten Years with the perusal of all the other Books of Law²¹⁴.

While this resembles the project reported by Moray to van Eck a decade earlier, an emphasis on establishing a better text is now obvious, especially when van Bijkershoek's letter is considered. The newly identified fuller proposals discussed below allow us to be certain that what he had in mind was a completely new edition; the problems of the text of the Torelli that he had discussed with Leibniz and van Bijkershoek were now coming to dominate in his mind²¹⁵.

The new edition of the *Corpus iuris* was not the only scholarly project with which Cunningham excited interest at this time. In 1696, he had explained to Carstares 'a scheme for proving the divine original of the Christian religion, and that all the arguments ordinarily made use of against it are clear proof of it'. Moreover, 'the divine original of the Christian doctrine being once proved, faith ought absolutely to take place as to its particular mysteries; and that the Scripture is to be the alone rule of judging of them'. According to Carstares, Cunningham's arguments had even convinced 'some great deists' (probably reporting Cunningham's own account) and showed how 'unreasonable it is for the Socinians to plead for Reason being the judge in matters divine'²¹⁶. The project also interested Locke and Thomas Burnett, who urged Locke to 'ingadge him (before he leave yow) To peice together his proofs of the christian religion That the world may enjoy that light he heth so long promised'²¹⁷. Cunningham and Locke discussed and exchanged books on this topic at this time²¹⁸. When Burnett

213. C. van Bijkershoek to C. van Eck, 31 July 1697, UB Utrecht, MS 1000 7B3.

214. *APS*, Vol. X, appendix, p. 27.

215. A. Cunningham to G.W. Leibniz (n.d.), NSLB, LBr. 186, fol. 1; C. van Bijkershoek to C. van Eck, 31 July 1697, UB Utrecht, MS 1000 7B3.

216. W. Carstares to Dunlop, 3 Nov. 1696, in Story, *William Carstares*, p. 257–258.

217. T. Burnett to J. Locke, 17 Mar. 1699, *Correspondence of Locke*, Vol. VI, p. 590.

218. A. Cunningham to J. Locke, 15 May 1699, *ibid.*, Vol. VI, p. 624.

visited Amsterdam in 1705, he talked at some length with Cunningham about 'his system ... of the Christian religion'. This discussion prompted Burnett to return to the view of Pierre Allix, a noted writer on religious and ecclesiastical history, that Cunningham was 'one of the most learned men in Europe in knowledge of the Christian fathers, of chronology, of oriental languages, of ecclesiastical history, and of the customs, proverbs, and manners of the Jews'. It was only necessary to hear Cunningham explain some obscure passages of the Bible to be convinced of the accuracy of Allix's judgement²¹⁹. Despite the prompting of Cunningham's minister nephew, George Logan, when his uncle was on his deathbed, he never produced the work. He claimed that 'he had never putt it in writing, & that he would dictate it to him any day, for he had it all in his head, and that it could be contain'd in four or five sheets of paper'²²⁰. Cunningham's deathbed in 1730 prompted Wodrow to describe this projected work from memory of the Civilian's visit to Glasgow around 1698–1699 as being 'designed to sheu that ther was not one of the laues of the Old Testament but what was absolutely necessary for the Jeues; and that, in the nature of things, they could have no other laues than God gave them; and even the laues about meats and the like wer bottomed upon necessary reasons. And as to Christ, he was to demonstrat ... that, on the supposition of God sending his Son as Messias, it was absolutely necessary that, when he came to the world in our nature, he should act directly the reverse to humane wisdom, and the maximes of the world'. Cunningham, who seems to have subscribed to an orthodox Calvinism, had also told Wodrow and his father 'that he had read all he could find on the Christian Religion in generall'²²¹. His acquisition of the work of Servetus was for more than merely its bibliographic interest and extreme rarity. At his death, he certainly owned a very valuable, elaborate and interesting collection of books on religion and religious history.

This project, with its emphasis on textual interpretation, philology, and history in understanding the Bible and Christianity has obvious parallels with Cunningham's work on the *Corpus iuris* and it is therefore unfortunate that we know so little about it. In this respect, his rejection of human reason as providing a standard of judgement in divinity is of peculiar importance. It hints at the authority to be placed on authoritative texts and historical knowledge (antiquities) in gaining understanding, giving us an insight into Cunningham's approach to the *Corpus iuris*.

219. T. Burnett to G.W. Leibniz, 20 Nov. 1705, NSLB, LBr. 132, fol. 149–150. Cunningham was an admirer of Allix: see A. Cunningham to J. Locke, 15 May 1699, *Correspondence of Locke*, Vol. VI, p. 624, recommending Allix's *The Judgement of the Ancient Jewish Church against the Unitarians*, London 1699.

220. Sir Thomas Pringle to D. Forbes, 30 Jan. 1731, *Culloden Papers: Comprising an Extensive and Interesting Correspondence from the Year 1625 to 1748*, London 1815, p. 121.

221. Wodrow, *Analecta*, Vol. IV, p. 152. Cunningham's orthodoxy is revealed by his reported comment that the greatest danger to Britain, after the death of King William was not 'Popery', but rather 'Arrianisme': *ibid.*, Vol. II, p. 367–368.

4. – Traveller, government agent, and dealer in books, 1700–1703

In 1703, van Bijkershoek described Cunningham as having ‘been away for five years in Italy, Spain, and France’²²². From around 1697 onwards, his journeying had certainly been intense both on his own and with Lord Lorne, in enthusiastic pursuit both of his scholarly projects and of books for himself and others. Indeed, in 1705 he told Burnett that his second visit to Italy with Lord Lorne had been ‘more for his plan for his body of law than for the education of this young prince’²²³. The period leading up to 1703 thus seems to have been very important in amassing his own library and in developing his thoughts further about the project for which he now enjoyed financial support from the Scottish Parliament. Unfortunately, it is not possible to be much more specific about Cunningham’s travelling than van Bijkershoek was; it is none the less useful to examine and assess the evidence that survives.

In the middle of 1700, Cunningham set off once more from London on his travels, planning to go to France²²⁴. He travelled there by way of Holland, taking books to Nicolas Toinard on behalf of Locke, who recommended him to his correspondent as a ‘very learned and very honourable man, and a fast friend of mine’²²⁵. He also had a commission to settle accounts on behalf of Locke²²⁶. By August 1700 Cunningham was in the Netherlands, planning a trip not only to France but to Italy²²⁷. If a letter of Christopher Codrington is to be correctly dated to June 1700, then this Italian visit was always part of the projected journey²²⁸. He stayed a few weeks in the Netherlands, but by November 1700 he was in Paris, where, on 25 January 1701, he signed a deed of factory appointing his brother Charles to manage his affairs in Scotland²²⁹. If two letters to William Carstares of August 1701 are from Cunningham the critic (as I believe they are), then he either remained in Paris through most of the year or returned after a trip to Italy; the former seems more likely²³⁰. These letters reveal that Cunningham,

222. C. van Bijkershoek to C. van Eck, 6 Sept. 1703, UB Utrecht, MS 1000 7B3.

223. T. Burnett to G.W. Leibniz, 20 Nov. 1705, NSLB, LBr. 132, fol. 149–150.

224. J. Locke to N. Toinard, 5 and 11 June 1700, *Correspondence of Locke*, Vol. VII, p. 88–90.

225. J. Locke to N. Toinard, 8 July 1700, *ibid.*, Vol. VII, p. 100.

226. J. Locke to N. Toinard, 13 Aug. 1700, *ibid.*, Vol. VII, p. 123–124.

227. J.G. Graevius to J. Gronovius, 9 Aug. 1700, UB München, 2^o Cod. MS 648.

228. C. Codrington to Dr Charlett, 25 June [no year], Oxf. Bod., MS Ballard 20, fol. 57. This is printed in *Letters Written by Eminent Persons in the Seventeenth and Eighteenth Centuries*, 2 vols. in 3, London 1813, Vol. I, p. 133 and assigned to the year 1702. This seems unlikely not only because of the content relating to Cunningham’s acquisition of books for Codrington, but also because it deals with the suicide of Thomas Creech in June 1700. Furthermore war had been declared on France in May 1702, making such a journey unlikely in June of that year.

229. T. Burnett to G.W. Leibniz, 18 and 20 Nov. 1700, NSLB, LBr 132, fol. 106; NAS, Register of Deeds, RD. 2/85, p. 189–190.

230. A. Cunningham to W. Carstares, 22, 26 Aug. 1701, *Carstares’ State-Papers*, p. 709–711. They are both signed ‘Alex. Cuninghame’, which, if accurate, more resembles the style of the signature of the Civilian and critic than of the historian and ambassador. It has proved impossible to trace the originals. The complicating factor in attributing them is that the other Cunningham was also in France, probably in 1701, and certainly before the death of King William in March 1702, on government business relating to commerce. For many years he sought compensation for his expenses and the visit is frequently mentioned

acting on the instructions of Carstares, was giving confidential assistance in negotiations relating to Scottish trade with France, especially the import of wine, in the aftermath of the tumultuous Parliament of 1700–1701, which, following the Darien debacle, had been very aggressive towards royal policy and hostile to English interests, in the context of increasing tension between Scotland and England in the years immediately before the Union. The Parliament had passed a number of acts on trade, including a highly unpopular act prohibiting the import of French wines²³¹. In the second letter to Carstares, Cunningham wrote that he intended 'to set out next week for Italy with my charge'. There is no evidence as to who this pupil was, other than it was someone other than Argyll's heir, should Dickson be correct that he travelled with Lorne in 1699 and 1700²³². This journey to Italy, scheduled to start at the end of August 1701, is undocumented²³³. Our next definite information is that, early in the autumn of 1703, Cunningham arrived in The Hague²³⁴. He had come from London²³⁵.

Cunningham's primary purpose in his journeys from 1700 to 1703 was to collect books. He had at least two important patrons for whom he worked in this respect. The first was Christopher Codrington. To enable and encourage him in this work, Codrington granted Cunningham an annuity, confirmed in his will dated 1702, in which he also made a legacy of 100 guineas to his 'verry good friend Mr. Alexander Cuningham'²³⁶. The annuity was evidently generous: Thomas Burnett informed Leibniz in 1700 that Codrington 'hath bein most kynd to and dealt most nobly with Mr Cunningham ... so that he will not want to live upon by this Collonel Codrington's favor'²³⁷. Already by 1700, Cunningham could be described as buying for Codrington 'the most valuable books in Europe at any pryce' and as having 'gott together for him' a 'rare and vast Collection'²³⁸. It is therefore unsurprising that, when Cunningham planned to leave for France and Italy in June 1700, Codrington eagerly anticipated that Cunningham

in his surviving correspondence: see, e.g., A. Cunningham to Earl of Sunderland, 30 July [no year, but 1707–1710], BL, Blenheim Papers, MS Add. 61632, fol. 107–108; A. Cunningham to Duke of Montrose, 8 July 1707, NAS, Montrose Muniments, GD 220/5/127/1.

231. APS, Vol. X, p. 278–279, c. 11. Swift, *Library of Charles Spencer*, Vol. I, p. 251–252 speculates that Cunningham was later a government agent in The Hague and that this was the source of his income.

232. A. Cunningham to W. Carstares, 26 Aug. 1701, *Carstares' State-Papers*, p. 710–711; Dickson, *Red John of the Battles*, p. 26. An interesting speculation is whether Cunningham was ever involved in the education of Argyll's brother Archibald Campbell, Earl of Ilay, and later 3rd Duke of Argyll.

233. The letter, dated at Rome, from A. Cunningham to A. Magliabechi, 2 Mar. 1702, Firenze, BNC, Magl. VIII, 1160, fol. 82–83 (nr. 47) is by Cunningham the historian and ambassador.

234. C. van Bijkershoek to C. van Eck, 6 Sept. 1703, UB Utrecht, MS 1000 7B3. Wodrow, *Analecta*, Vol. II, p. 367–368, recounts an anecdote of Cunningham in London in 1701. While always possible, Wodrow is not always reliable about dates. It might refer to 1700: the context is the approaching death of King William.

235. A. Cunningham to Earl of Sunderland, 8 Nov. 1703, BL, Blenheim Papers, MS Add. 61657, fol. 8.

236. V.T. Harlow, *Christopher Codrington 1668–1710*, Oxford 1928; repr. New York 1990, p. 219.

237. T. Burnett to G.W. Leibniz, 20 Oct. 1700, NSLB, LBr. 132, fol. 102–103.

238. *Ibid.*

would 'miss nothing that is curious'²³⁹. Codrington's library was located in All Souls College, Oxford, and his plan was to leave the library with a building to the College²⁴⁰. Cunningham continued to collect books for Codrington's library for some years after 1703, though some of what he sent was disparaged by Codrington's Librarian²⁴¹.

The second important patron for whom Cunningham collected books was the bibliophile Earl of Sunderland. The Earl's association with Cunningham (like that of Codrington) dates from before Cunningham's journey to France and Italy in 1700, since on 1 July of that year Sunderland (who had not yet succeeded to the Earldom) granted a promissory note to Cunningham for £168/8/- 'for Books receiv'd from him'²⁴². Cunningham presumably had sold to Sunderland some of the books he had bought on his recent travels with Lord Lorne. By December 1703, Sunderland had discharged only a small amount of this debt and incurred further debt to Cunningham for books²⁴³. A document drawn up before Sunderland succeeded to the Earldom in September 1702 lists books and prices in the hand of Cunningham and reveals that Cunningham was already acting with his nephew James Logan in offering and supplying books (both editions of the classics and works on law) to Sunderland²⁴⁴. Between 1703 and 1713, Cunningham, acting with Logan, was to be very heavily involved in supplying Sunderland with works for his library and Sunderland's papers for this period contain many lists of books and accounts demonstrating these activities²⁴⁵. The collection of law books and (mainly) Latin classics assembled by Sunderland with Cunningham's guidance and assistance was that of a scholar rather than of a connoisseur and statesman. Others helped Sunderland collect bibliographical rarities and prizes. Many of the books bought through Cunningham were individually undistinguished; but the collection as a whole was of the first significance and Dr Swift has concluded that Sunderland's library 'owed its distinctive character' to Cunningham²⁴⁶. Indeed, it was perhaps this focus on a scholarly collection rather than an emphasis on the fine editions thought suited to the man of taste that later caused Codrington's Librarian to accuse Cunningham of supplying books 'not worth the carriage'²⁴⁷.

As well as supplying books to Codrington, Sutherland, and, perhaps, other learned patrons of whom we know little or nothing, but who included Bishop Moore, Cunningham's journeys allowed him to collect the volumes he needed

239. C. Codrington to Dr Charlett, 25 June [no year; but 1700], Oxf. Bod., MS Ballard 20, fol. 57; *Letters Written by Eminent Persons*, Vol. I, p. 133 [misdated 1702].

240. See the description of his aims in T. Burnett to G.W. Leibniz, 20 Oct. 1700, NSLB, LBr. 132, fol. 102–103.

241. Craster, *All Souls College Library*, p. 68–69.

242. BL, Blenheim Papers, MS Add. 61657, fol. 130.

243. BL, Blenheim Papers, MS Add. 61657, fol. 10.

244. BL, Blenheim Papers, MS Add. 61657, fol. 5–7.

245. See generally, Swift, *Library of Charles Spencer*, Vol. I, p. 251.

246. *Ibid.*, Vol. I, p. 279–280. See also K. Swift, *Bibliotheca Sunderlandiana: The Making of an Eighteenth-Century Library*, in R. Myers and Michael Harris (edd.), *Bibliophilically*, Cambridge 1986, p. 63–89. On the Sunderland MSS, see eadem, *Poggio's Quintilian and the Fate of the Sunderland Manuscripts*, *Querendo* 13 (1983), p. 224–238 (responding to M.H. Hoeflich, *Dutch Scholars and British Lords: Poggio's Quintilian in the Seventeenth and Eighteenth Centuries*, *Querendo* 12 (1982), p. 52–59).

247. Craster, *All Souls College Library*, p. 69.

for his project on the *Corpus iuris*²⁴⁸. In obvious allusion to the planned edition, Codrington described his annuity to Cunningham as to help support 'him in the great and usefull Labours in which he Impleys himselfe for the publick Benefit'²⁴⁹. The nature of his project was now clear. Graevius told Laurens Gronovius that Cunningham, setting out on his Italian journey in 1700, had decided to edit the Digest and had said that he had himself already collected much from manuscripts and editions towards publication of an amended version. The Scot also hoped to be allowed to study the *Florentina*. Through Graevius, however, Cunningham also sought access to Laurens Gronovius's collation of the manuscript, offering 100 Belgian florins for a copy²⁵⁰. Cunningham also sought to get Jacob Gronovius to persuade his brother Laurens to communicate his readings from the Florentine Pandects²⁵¹. By the autumn of 1703, therefore, van Bijkershoek could write from The Hague to van Eck:

There is no news from here, other than that the travels of that Cunningham, the Scot, about whom I recall that we recently had a conversation, have brought him here. He has been away for five years in Italy, Spain, and France, but he will now stay here for a number of months, and promises that the production of the new edition of the *Corpus iuris* that he has long reflected on will be brought to a conclusion in the future, and, to finish it, he has requested the use of the manuscript of the Pandects and other documents from my library²⁵².

In fact, Cunningham was now to make The Hague his main residence from 1703 to 1716 – thirteen years rather than a few months – spending much of that time working on his edition, though, one suspects, with increasingly less enthusiasm as the years went by, especially as new interests started to take priority.

(Part II will appear in the next issue)

248. As well as the manuscripts, including the Moore Bede, which we know Cunningham sold to the Bishop, he also sold at least one printed book, suggesting he almost certainly supplied Moore with books in a more regular fashion: see A. Cunningham to J. Logan, 22 Feb. 1709, CUL, MS Dd.3.64, fol. 56. It is worth noting that a note (undated) from Cunningham to the bookseller Nathaniel Noel concerning the delivery of books is found in the Harleian papers in the British Library. Harley was a great book collector: BL, MS Harl. 3778, fol. 156. See also *The Diary of Humfrey Wanley*, ed. by C.E. and R.C. Wright, 2 vols., London 1966, Vol. I, p. 72–73 referring to books of Alexander Cunningham in a closet. Wanley was currently Harley's librarian. Wodrow, *Analecta*, Vol. IV, p. 152–153 states that Cunningham helped, as well as Sunderland, Lords Somers and Cooper, the Earl of Oxford (Harley), 'and, more lately ... [the] Earl of Isla' to collect books.

249. Harlow, *Christopher Codrington*, p. 219.

250. J.G. Graevius to L.T. Gronovius, 7 Aug. 1700, UB München, MS 649, fol. 65.

251. J.G. Graevius to J. Gronovius, 7 Aug. 1700, UB München, MS 648.

252. 'Novarum rerum hic nihil est, nisi scire attinet, huc iterum appulisse illum Coningham, scotum, de quo nos nuper ad huc sermonem habuisse recordor. per quinquennium abfuit in Italia, Hispania, Gallia; nunc aliquot menses hic morabitur, et pollicetur, se diu cogitatum opus de nova editione Corporis Juris porro esse absoluturum, eique fini usum manuscripti Pandectarum et alia Bibliothecae meae instrumenta expetiit'. C. van Bijkershoek to C. van Eck, 6 Sept. 1703, UB Utrecht, MS 1000 7B3.